



**NOTTINGHAM CITY COUNCIL**  
**EXECUTIVE BOARD**

**Date:** Tuesday, 18 September 2018

**Time:** 2.00 pm

**Place:** Ground Floor Committee Room - Loxley House, Station Street, Nottingham,  
NG2 3NG

**Councillors are requested to attend the above meeting to transact the following business**

**Corporate Director for Strategy and Resources**

**Governance Officer:** Noel McMenamin, Constitutional Services, Tel: 0115 8764304  
**Direct Dial:** 0115 8764304

**AGENDA**

**Pages**

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| <b>1</b> | <b>APOLOGIES FOR ABSENCE</b>   |           |
| <b>2</b> | <b>DECLARATIONS OF INTERESTS</b>   |           |
| <b>3</b> | <b>MINUTES</b><br>Last meeting held on 31 July 2018 (for confirmation)   | 3 - 8     |
| <b>4</b> | <b>REVIEW OF 2018/19 REVENUE AND CAPITAL BUDGETS AT 30 JUNE 2018 (QUARTER 1)</b><br>Report of Deputy Leader/Portfolio Holder for Finance, Resources and Commercial Services                                  | 9 - 34    |
| <b>5</b> | <b>IMPLEMENTATION OF PROPOSED SCHEME OF ADDITIONAL LICENSING OF HOUSES IN MULTIPLE OCCUPATION</b><br>Joint Report of Portfolio Holder for Housing and Planning and Portfolio Holder for Community Protection | 35 - 112  |
| <b>6</b> | <b>HOUSING LICENSING HOUSES IN MULTIPLE OCCUPATION (HMO) REVISED FEE STRUCTURE 2018</b><br>Report of Portfolio Holder for Community Protection   | 113 - 148 |

ALL ITEMS LISTED 'UNDER EXCLUSION OF THE PUBLIC' WILL BE HEARD IN PRIVATE FOR THE REASONS LISTED IN THE AGENDA PAPERS. THEY HAVE BEEN INCLUDED ON THE AGENDA AS NO REPRESENTATIONS AGAINST HEARING THE ITEMS IN PRIVATE WERE RECEIVED

IF YOU NEED ANY ADVICE ON DECLARING AN INTEREST IN ANY ITEM ON THE AGENDA, PLEASE CONTACT THE GOVERNANCE OFFICER SHOWN ABOVE, IF POSSIBLE BEFORE THE DAY OF THE MEETING

CITIZENS ATTENDING MEETINGS ARE ASKED TO ARRIVE AT LEAST 15 MINUTES BEFORE THE START OF THE MEETING TO BE ISSUED WITH VISITOR BADGES

CITIZENS ARE ADVISED THAT THIS MEETING MAY BE RECORDED BY MEMBERS OF THE PUBLIC. ANY RECORDING OR REPORTING ON THIS MEETING SHOULD TAKE PLACE IN ACCORDANCE WITH THE COUNCIL'S POLICY ON RECORDING AND REPORTING ON PUBLIC MEETINGS, WHICH IS AVAILABLE AT [WWW.NOTTINGHAMCITY.GOV.UK](http://WWW.NOTTINGHAMCITY.GOV.UK). INDIVIDUALS INTENDING TO RECORD THE MEETING ARE ASKED TO NOTIFY THE GOVERNANCE OFFICER SHOWN ABOVE IN ADVANCE.

**NOTTINGHAM CITY COUNCIL**

**EXECUTIVE BOARD**

**MINUTES of the meeting held at Ground Floor Committee Room - Loxley House, Station Street, Nottingham, NG2 3NG on 31 July 2018 from 2.00 pm - 2.28 pm**

**Membership**

Present

Councillor Jon Collins (Chair)  
Councillor Graham Chapman (Vice Chair)  
Councillor Jon Collins (Chair)  
Councillor Neghat Khan  
Councillor Dave Liversidge  
Councillor Sally Longford  
Councillor David Mellen  
Councillor Toby Neal  
Councillor Jane Urquhart

Absent

Councillor Dave Trimble  
Councillor Sam Webster

**Colleagues, partners and others in attendance:**

Ian Curryer	- Chief Executive
David Bishop	- Deputy Chief Executive/Corporate Director Development and Growth
Chris Deas	- Director of Major Programmes
Richard Henderson	- Director of HR and Customer
Iffat Iqbal	- Operations Manager
Zahur Khan	- Director of Traffic and Transport
Rebecca Langton	- Executive Officer to the Leader
Nick Lee	- Head of Access and Learning
Nigel Lee	- Friends of the Earth
Noel McMenamin	- Governance Officer
Keri Usherwood	- Portfolio Communications Manager

**Call-in**

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is Friday 10 August 2018. Decisions cannot be implemented until the working day after this date.

**18 APOLOGIES FOR ABSENCE**

Councillor Dave Trimble – leave  
Councillor Sam Webster – other Council business

Candida Brudenell  
Alison Michalska

## **19 DECLARATIONS OF INTERESTS**

None.

## **20 MINUTES**

The minutes of the meeting held on 19 June 2018 were agreed as a true record and they were signed by the Chair.

## **21 PUBLIC TRANSPORT PROJECT FUNDING (SMART TICKETING)**

The Board considered a report of the Portfolio Holder for Transport and HR on the proposed acceptance of funding from the National Productivity Investment Fund (NPIF) to enable the existing Robin Hood Ticketing System to be upgraded across the local public transport network, helping deliver integrated travel between buses, trams and different operating companies.

### **RESOLVED to**

- (1) accept the grant offer of £2,400,000 from the Department of Transport to deliver the contactless payment project;**
- (2) delegate authority to the Corporate Director of Development and Growth in association with the appropriate Portfolio Holders to agree the final contactless payment strategy with the local public transport operators via Partnership arrangements if at all possible;**
- (3) delegate authority to the Director of Traffic and Transport to approve the procurement of the required goods and services to deliver the contactless payment project (reader upgrades and back-office systems).**

### Reasons for the decisions

The Robin Hood partnership operators group has a preference for multiple suppliers to be considered on an open platform ticketing solution.

Approval is required to draw down grant, and to have appropriate delegations in place when further decisions are ready to be taken.

### Other options considered

Rejecting funding and leaving operators to develop individual account based ticketing and contactless payment schemes – not a preferred option.

Developing a solution at odds with some of the key operators, that enhances the chances of fragmentation – not a preferred option.

## **22 LOCAL PLAN TO IMPROVE AIR QUALITY IN NOTTINGHAM**

The Board considered a report of the Portfolio Holder for Energy and the Environment, requesting approval in principle for local plan measures aimed at

improving air quality in Nottingham City, and to approve the public consultation of local plan proposals prior to submission of the local plan to the Department for Environment, Food and Rural Affairs (DEFRA) in September 2018.

**RESOLVED to**

- (1) approve in principle the proposed local plan measures aimed at improving Air Quality in Nottingham City;**
- (2) approve the public consultation on the local plan during August and early September 2018 for a minimum four week period;**
- (3) delegate authority to the Corporate Director for Development and Growth to approve the submission of the final local plan to DEFRA by 15<sup>th</sup> September 2018;**
- (4) agree in principle to the variation to Air Quality Management Area (AQMA) No. 2 to the whole City administrative area;**
- (5) agree in principle to seek legal authority to enforce vehicle 'anti-idling' legislation in the newly varied AQMA no.2.**

Reasons for the decisions

Air pollution is associated with a number of adverse health impacts, with 6.4% of all adult mortality in Nottingham attributable to long term exposure to human made particulate pollution in 2010.

The City Council has a statutory obligation to regularly review and assess air quality in its area.

There is an national ongoing initiative to reduce nitrogen dioxide (NO<sub>2</sub>) levels in towns and cities, and DEFRA analysis in 2015 concluded that 6 cities, including Nottingham, had NO<sub>2</sub> levels likely to exceed EU Air Quality Directive 99/30/EC by 2020.

In December 2017, the Secretary of State for the Environment directed the Council to produce a Local Plan by 15 September 2018 to deliver compliance with the Air Quality Directive.

Other options considered

An option for introducing a Class b Clean Air Zone around Nottingham City Centre was considered. However, air quality modelling indicates that nitrogen dioxide levels will be below legal limits by 2020 and beyond, and so a Clean Air Zone is not required.

The Board considered the report of the Portfolio Holder for Regeneration and Growth, seeking approval to commence the Broadmarsh car park development, incorporating a new car park and complementary retail. This is an integral part of the wider Broadmarsh programme to deliver significant regeneration in the Southern side of Nottingham.

**RESOLVED to**

- (1) approve the current projected cost of Broadmarsh car park development as laid out in Appendix D to the report, and for it to proceed to construction, with contracts let by Christmas 2018, amending the capital programme accordingly;**
- (2) note the progress of construction contract negotiations and delegate authority to the Deputy Chief Executive/Director of Development in consultation with the Leader of the Council/Portfolio Holder for Regeneration and Growth to agree to any additions/alterations to the contract, subject to any such amendments being contained within the finances as outlined at Appendix D to the report;**
- (3) approve delegated authority to the Deputy Chief Executive/Strategic Director of Development in consultation with the Leader of the Council/Portfolio Holder for Regeneration and Growth to authorise the signature of the construction contract and other agreements, including external funding arrangements relating to the completion of the project, within financial parameters outlined in the finance comments in Appendix D to the report;**
- (4) endorse the ongoing project resourcing required to deliver the development and the above works in the manner laid out in the finance comments in Appendix D.**

Reasons for decision

To enable the Broadmarsh Car Park development to be achieved.

Other options considered

The option to do nothing was rejected as it would be breach of the lease agreement with intu, would miss the opportunity for car parking income, would have a detrimental impact on the economic vitality of the City and would not deliver the ambition to regenerate the Southern gateway to the City;

The option of delaying the start of the development was rejected as the benefits highlighted above would be delayed and adversely affect growth momentum;

The option of pursuing a lower cost option was rejected as it could not achieve the Council's economic growth ambition for the area, nor would it maximise future Council income from the development.

**24 EXCLUSION OF THE PUBLIC**

**RESOLVED** to exclude the public from the meeting during consideration of the remaining item in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**25 BROADMARSH CAR PARK DEVELOPMENT EXEMPT APPENDICES**

The Board considered the Portfolio Holder for Regeneration and Growth's exempt report.

**RESOLVED** to approve the recommendations in the report.

Reasons for decisions

As detailed in the report.

Other options considered

As detailed in the report.

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<b>Subject:</b>	Review of 2018/19 Revenue and Capital Budgets at 30 June 2018 (Quarter 1)
<b>Corporate Director(s)/Director(s):</b>	Laura Pattman, Strategic Director of Finance
<b>Portfolio Holder(s):</b>	Councillor Graham Chapman, Deputy Leader/Portfolio Holder for Finance, Resources and Commercial Services
<b>Report author and contact details:</b>	Theresa Channell, Head of Strategic Finance & Deputy Section 151 Officer 0115 8763649 theresa.channell@nottinghamcity.gov.uk
<b>Subject to call-in:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Key Decision:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Criteria for Key Decision:</b>	
<b>(a)</b>	<input checked="" type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
<b>and/or</b>	
<b>(b)</b>	Significant impact on communities living or working in two or more wards in the City <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Type of expenditure:</b>	<input checked="" type="checkbox"/> Revenue <input checked="" type="checkbox"/> Capital
<b>Total value of the decision:</b>	<b>£158.976m</b>
<b>Wards affected:</b>	All
<b>Date of consultation with Portfolio Holder(s):</b>	Throughout April – June 2018
<b>Relevant Council Plan Key Theme:</b>	
Strategic Regeneration and Development	<input checked="" type="checkbox"/>
Schools	<input checked="" type="checkbox"/>
Planning and Housing	<input checked="" type="checkbox"/>
Community Services	<input checked="" type="checkbox"/>
Energy, Sustainability and Customer	<input checked="" type="checkbox"/>
Jobs, Growth and Transport	<input checked="" type="checkbox"/>
Adults, Health and Community Sector	<input checked="" type="checkbox"/>
Children, Early Intervention and Early Years	<input checked="" type="checkbox"/>
Leisure and Culture	<input checked="" type="checkbox"/>
Resources and Neighbourhood Regeneration	<input checked="" type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>	
<p>This report provides an up to date assessment of the Council’s current and forecast year-end financial position for the General Fund revenue account, Capital Programme and the Housing Revenue Account (HRA) based on activity to the end of June 2018.</p> <p>The City Council, like all other local authorities across the country, has seen a substantial and sustained reduction in Government funding because of austerity policies. Alongside this reduction in grant income, Nottingham has seen increased demand for a number of services, for example Adult Social Care and Children in Care. This has resulted in the Council having to make savings totalling <b>£262.075m</b> between 2010/11 and 2018/19.</p> <p>The 2017/18 outturn showed a net overspend of <b>£4.215m</b> and this will be repaid in 2018/19 through a one off review of reserves. The Quarter 1 2018/19 position is showing a net overspend of <b>£2.491m</b>, however management action is in place and the Council is committed to delivering on budget at outturn.</p>	
<b>Exempt information:</b>	<b>State ‘None’ or complete the following</b>
None.	
<b>Recommendation(s):</b>	
<b>1</b>	To note: a) the overall current forecast net overspend of <b>£2.491m</b> , as set out in paragraph 2.2 and Appendix A. The Council is committed to delivering services on budget for 2018/19;

- b) the forecast working balance of **£7.727m** on the HRA, as set out in paragraph 2.7;
- c) the forecast position on the Capital Programme, as set out in paragraph 2.9;
- d) the Capital Programme projections at Quarter 1, as set out in paragraph 2.9 (table 4);
- e) the additions to the Capital Programme listed in Appendix E;
- f) the refreshed Capital Programme, including schemes in development, as set out in paragraph 2.9 (tables 5, 6 and 7).

**2** To approve:

- a. The movements of resources set out in paragraph 2.6 and Appendix D.

**3** To note and endorse the allocations from the corporate contingency as set out in paragraph 2.4.

## **1 REASONS FOR RECOMMENDATIONS**

- 1.1 It enables formal monitoring of progress against the 2018/19 budget and the impact of actual and planned management action.
- 1.2 The approval for virements of budgets is required by corporate financial procedures.

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

- 2.1 The 2018/19 revenue budget was approved by City Council in March 2018. This periodic report summarises the current assessment of the Council's forecast outturn of the General Fund and HRA. Some report tables may not sum exactly due to rounding.
- 2.2 Forecasting is risk-based, reflecting the diverse nature of the Council's activities and the wide range of issues impacting on the financial position. Table 1 shows the current forecast and is based on the ledger position as at 30 June 2018.

Following Executive Board in May, the portfolios have changed and the forecast outturn in Table 1 below reflects the new portfolios. The 2017/18 outturn variance column has been restated as per the current portfolios.

Appendix A provides more detail and Appendix B explains the main variances.

<b>TABLE 1: CURRENT FORECAST OUTTURN AS AT 30.06.18 (Q1)</b>		
<b>OUTTURN VARIANCE 2017/18 £m</b>	<b>PORTFOLIO</b>	<b>FORECAST OUTTURN £m</b>
0.713	Adult Social Care & Health	0.168
(0.696)	Community Protection	(0.304)
2.529	Early Intervention & Early Years	0.831
0.947	Education & Skills	1.041
(0.609)	Energy & Environment	0.961
(0.021)	Finance, Resources & Commercial Services	0.011
0.659	Housing & Planning	0.191
(0.311)	Leisure & Localities	(0.343)
0.608	Regeneration & Growth	0.178
(0.785)	Transport & HR	(0.207)
<b>3.036</b>	<b>TOTAL PORTFOLIOS</b>	<b>2.527</b>
1.149	Corporate budgets	(0.036)
10.111	Health Integration	0.000
<b>14.294</b>	<b>PRIOR TO CORPORATE MITIGATION</b>	<b>2.491</b>

	Repay Outturn 2017/18	4.215
	One off (review of reserves)	(4.215)
(10.081)	Corporate Mitigation and Management Action*	0.000
<b>4.215</b>	<b>TOTAL</b>	<b>2.491</b>

\* For further details, please refer to the 2017/18 Outturn Report, approved by Executive Board in June 2018

### 2.3 General Reserves

These provide a financial safety net to cover above-budget costs during the year. Variations in forecast outturn will impact on general reserves. Underspends increase reserves and overspends decrease them. Table 2 shows the potential impact of the current medium case forecast variance on the general reserve.

<b>TABLE 2: POTENTIAL IMPACT ON THE GENERAL RESERVE</b>	
<b>ITEM</b>	<b>£m</b>
<b>Opening Balance at 01.04.18</b>	<b>9.643</b>
2017/18 Outturn	(4.215)
<b>Revised Opening Balance</b>	<b>5.428</b>
Increase/(Decrease) in Reserves based on Q1 forecast	(2.491)
Repay 2017/18 Outturn	4.215
<b>Estimated Reserves at 31.03.18</b>	<b>7.152</b>
<b>Required level of reserves</b>	<b>9.643</b>
<b>Management Action required to address overspend</b>	<b>2.491</b>

The minimum level of opening reserves for 2018/19 was set at **£9.643m**. The impact of the outturn for 2017/18 as approved by Executive Board June 2018 was a reduction in the general fund balance of **£4.215m**. This means that further savings of **£4.215m** are needed in 2018/19 to pay the reserve back, which will be done through a one off review of reserves. Management action is in place to deliver an on budget position for 2018/19.

### 2.4 Corporate Contingency

This enables management of the financial impact of issues that were not reflected when the budget was set. It is allocated under the delegated authority of the SDF in consultation with the Deputy Leader using designated criteria. Services are required to accommodate unforeseen expenditure and/or income shortfalls from within their cash limited budgets, only seeking allocations where this is proven impossible. Contingency is **£1.800m** in 2018/19. Table 5 shows the allocations approved by the SDF and Deputy Leader up to the date of despatch of this report, which now require endorsement.

<b>TABLE 3: CONTINGENCY ALLOCATIONS REQUIRING ENDORSEMENT</b>	
<b>Item</b>	<b>Amount £m</b>
Midlands Engine	0.020
D2N2	0.063
Changing City Boundaries	0.067
<b>TOTAL</b>	<b>0.150</b>

This leaves a remaining balance of **£1.650m**, although there are further pending applications, which will be reported as part of the next monitoring report. Forecast outturn assumes full use of contingency.

## 2.5 Cost reductions and Potential Overspend Risks

The 2018/19 budget includes new cost reductions of **£29.375m** and potential overspend risks of **£4.424m**. Any issues affecting the delivery of these are detailed in Appendix B.

## 2.6 Movement of Resources

Transfers of services between directorates and/or portfolios are reflected within the monitoring figures. Some transfers are before the change in Executive arrangements approved at Council in May so refer to previous portfolios that were in place until then. These movements of resources now require approval and are detailed in Appendix D.

## 2.7 HRA Budget

A balanced HRA budget was approved at the February 2018 Full Council meeting, which increased the working balance from **£4.000m** to **£7.727m** at 31 March 2018. The working balance acts as a contingency to cover unexpected significant expenditure or loss of income. The increase in the 2018/19 budget is to provide for the introduction of Universal Credit in October 2018 and the impact on arrears and bad debt. The latest forecast is a projected in-year balanced position therefore retaining the working balance at **£7.727m**.

## 2.8 Debtors Monitoring (Appendix C)

### Housing Rents

The performance (97.09%) is behind target (98.5%) and slightly behind the position at the end of quarter one last year (97.27%), however it is an improvement on last month. The overall trend is improving and we have plans in place to improve collection over quarter two.

### Council Tax – on track to deliver the assumed position in the MTFP

Collection for Quarter 1 of 2018/19 was 26.1%, which matches the profiled target, but in percentage terms is behind by 0.25% when compared to 2017/18, however financially, collection amounted to **£34.8m** compared to collection of **£32.8m** for the same period in 2017/18. Net debt collectable over the two financial years has increased from **£124.7m** in 2017/18 to **£133.7m** in 2018/19.

### National Non- Domestic Rates (NNDR) – on track to deliver the assumed position in the MTFP

Collection for Quarter 1 of 2018/19 was 27.34%, which was 1.16% below the profiled target. Collection amounted to **£39.5m**, compared to collection of **£39.7m** in 2017/18. Net debt collectable over the year has increased from **£141.1m** in 2017/18 to **£144.5m** in 2018/19.

### Sundry Income

The percentage of debts collected within 90 days in the 12 months to June 2018 was 79%, which compares slightly less favourably to the corresponding figure for 2017/18 of 83.30%.

The debtor day indicator (which shows how quickly debts are recovered) is currently 31 days, exceeding the target of 32.30 days. Management action continues to target the application of receipts and the 90 day collection percentage should maintain an improvement over future periods.

### Adult Residential Services

The collection rate for Q1 is 2% above target of 95.90%. Adult Residential Services moved over to a new financial system in August 2017. This has caused

significant operational challenges in managing debt on the legacy system alongside the new one. There will always be cases with no legal recourse where citizens cannot access funds due to lack of mental capacity and awaiting probate.

### Estates Rents

The collection rate of 97.94% is above the set target of 97.50% and individual periods within the quarter have shown a sustained improvement.

## 2.9 Capital Programme Update

The outturn report approved an updated overall Capital Programme for 2018/19 of **£127.977m** for Category 1 (approved) General Fund Schemes and **£61.622m** for Public Sector Housing. During quarter 1 schemes to the value of **£5.932M** have been approved while slippage and other movements of approved schemes equates to **£10.578m**. Actual spend to the end of quarter 1 is **£18.498m**.

TABLE 4: REVISED CAPITAL PROGRAMME AND ACTUAL SPEND FOR QUARTER 1						
PORTFOLIO	18/19 Forecast Spend £m	18/19 New Approvals £m	Other Movements (Slippage / Reprofiling) £m	Projected Outturn at Qtr1 £m	Actual Spend to Qtr1 £m	New Approvals (Spend 19/20+) £m
Public Sector Housing	61.622	0.030	(5.584)	<b>56.068</b>	4.847	0.000
<b>Category 1 (Approved Schemes)</b>						
Transport Schemes	22.908	0.000	(0.805)	<b>22.103</b>	1.516	0.000
Education / Schools	9.470	0.985	(1.349)	<b>9.106</b>	0.642	0.000
Other Services	95.599	4.917	2.520	<b>103.036</b>	11.493	0.533
<b>Category 2 (Planned Schemes)</b>	147.787	0.000	(5.360)	<b>142.427</b>	0.000	0.000
<b>TOTAL</b>	<b>337.386</b>	<b>5.932</b>	<b>(10.578)</b>	<b>332.740</b>	<b>18.498</b>	<b>0.533</b>

### Approvals in Quarter 1

Scheme amendments and additions of **£5.932** have been approved in quarter 1 where the capital spend is expected to be incurred in 2018/19. Further additions of **£0.533m** have been included as future commitments.

Details of approvals during quarter 1 over £1.000m are listed below:

- **£2.815m** Low Emission Fleet Project:
- **£1.453m** Nottingham Castle Transformation Project (**£0.920m** in 2018/19 and **£0.533m** in future years):

Further details of all quarter 1 approvals are provided in Appendix E.

### Other Movements (Slippage / Reprofiling)

Scheme movements (slippages / reprofiling) during quarter 1 2018/19 is **£10.578**. Schemes where slippage is over £0.500m are detailed below in **Table 5**.

<b>TABLE 5: QUARTER 1 MOVEMENTS (SLIPPAGES / REPROFILING)</b>			
<b>Scheme</b>	<b>2018/19 Forecast at Outturn £m</b>	<b>2018/19 Scheme Forecast at Qtr1 £m</b>	<b>Movement £m</b>
<b>Public Sector Housing</b>			
Knights Close - New Build	2.341	0.500	(1.841)
Clifton Miners Welfare - New Build	2.214	0.812	(1.402)
Tunstall Drive - New Build	2.018	0.561	(1.457)
Marlstones - New Build	1.448	0.781	(0.667)
Lift Replacement Programme	0.930	1.483	0.553
<b>Public Sector Housing - TOTAL</b>	<b>8.951</b>	<b>4.137</b>	<b>(4.814)</b>
<b>Education / Schools</b>			
Glade Hill Primary - Expansion	2.067	1.567	(0.500)
Middleton Primary - Expansion	3.811	2.811	(1.000)
Fernwood School Expansion	0.000	0.750	0.750
<b>Education / Schools - TOTAL</b>	<b>5.878</b>	<b>5.128</b>	<b>(0.750)</b>
<b>Other Services</b>			
NET Lines 2/3 - Quantative Risk Assessment	1.900	0.020	(1.880)
ERDF Axis 6 - Daybrook Park	1.480	2.150	0.670
Blueprint Third Party Loan	0.000	5.000	5.000
<b>Other Services - TOTAL</b>	<b>3.380</b>	<b>7.170</b>	<b>3.790</b>
<b>Category 2 (Planned Schemes)</b>			
Broadmarsh - Car Park	21.076	15.716	(5.360)
<b>Category 2 (Planned Schemes) - TOTAL</b>	<b>21.076</b>	<b>15.716</b>	<b>(5.360)</b>
Other movements			(3.444)
<b>Scheme Movements at Quarter 1 - TOTAL</b>			<b>(10.578)</b>

### Public Sector Housing (HRA) Capital Programme

The Public Sector Housing programme has been updated to reflect movements in quarter 1, the table below sets out the updated programme and resources.

<b>TABLE 6: PUBLIC SECTOR HOUSING - CAPITAL PROGRAMME &amp; RESOURCES</b>						
	<b>2018/19 £m</b>	<b>2019/20 £m</b>	<b>2020/21 £m</b>	<b>2021/22 £m</b>	<b>2022/23 £m</b>	<b>TOTAL £m</b>
<b>Public Sector Housing Capital Programme</b>	<b>56.069</b>	<b>53.702</b>	<b>36.105</b>	<b>36.622</b>	<b>36.569</b>	<b>219.068</b>
<b>Resources Available</b>						
Prudential Borrowing	(7.769)	(8.581)	(5.462)	(3.359)	(1.768)	<b>(26.939)</b>
Grants & contributions	(3.268)	(3.000)	0.000	0.000	0.000	<b>(6.268)</b>
Direct Revenue Financing	0.000	0.000	0.000	0.000	0.000	<b>0.000</b>
Major Repairs Reserve	(41.951)	(28.271)	(28.438)	(28.438)	(28.438)	<b>(155.534)</b>
Secured Capital Receipts	0.000	0.000	0.000	0.000	0.000	<b>0.000</b>
Capital Receipts Unsecured	(20.860)	(0.840)	(0.200)	(0.200)	(0.141)	<b>(22.241)</b>

<b>Total Resources</b>	<b>(73.849)</b>	<b>(40.691)</b>	<b>(34.099)</b>	<b>(31.997)</b>	<b>(30.346)</b>	<b>(210.983)</b>
<b>Cumulative (Surplus)/Shortfall</b>	<b>(17.780)</b>	<b>(4.769)</b>	<b>(2.763)</b>	<b>1.862</b>	<b>8.085</b>	<b>8.085</b>

### General Fund Capital Programme

The General Fund Capital Programme has been updated to reflect the movements in quarter 1, the table below sets out the updated programme and resources.

<b>TABLE 7: GENERAL FUND - CAPITAL PROGRAMME AND RESOURCES</b>						
<b>Scheme</b>	<b>2018/19 £m</b>	<b>2019/20 £m</b>	<b>2020/21 £m</b>	<b>2021/22 £m</b>	<b>2022/23 £m</b>	<b>Total £m</b>
<b>Category 1 (Approved Schemes)</b>						
Transport Schemes	22.103	13.833	6.002	0.000	0.000	<b>41.938</b>
Education / Schools	9.106	1.851	0.000	0.000	0.000	<b>10.957</b>
Other Services	103.036	35.874	20.616	9.015	9.236	<b>177.777</b>
<b>Category 2 (Planned Schemes)</b>	<b>142.427</b>	<b>57.804</b>	<b>9.851</b>	<b>0.000</b>	<b>0.000</b>	<b>210.082</b>
<b>Total Programme</b>	<b>276.672</b>	<b>109.362</b>	<b>36.469</b>	<b>9.015</b>	<b>9.236</b>	<b>440.754</b>
<b>Resources</b>						
Prudential Borrowing	(187.983)	(56.279)	(22.183)	(5.691)	(6.155)	<b>(278.291)</b>
Grants & Contributions	(74.544)	(44.527)	(11.756)	(2.395)	(2.227)	<b>(135.449)</b>
Internal Funds / Revenue	(6.420)	(2.410)	(0.306)	(0.170)	(0.104)	<b>(9.410)</b>
Secured Capital Receipts	(0.513)	0.000	0.000	0.000	0.000	<b>(0.513)</b>
Unsecured Capital Receipts	(7.212)	(6.146)	(2.224)	(0.759)	(0.750)	<b>(17.091)</b>
<b>Resourcing Subtotal - Category 1 &amp; 2</b>	<b>(276.672)</b>	<b>(109.362)</b>	<b>(36.469)</b>	<b>(9.015)</b>	<b>(9.236)</b>	<b>(440.754)</b>

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

3.1 No other options were considered as the Council is required to ensure that, at a corporate level, expenditure and income are kept within approved budget levels and this report sets out how this is being managed.

### **4 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)**

4.1 Financial implications appear throughout the report.

4.2 The financial plans and budgets support delivery of the Council Plan. Monitoring the financial position in parallel with service plan activity helps to ensure the delivery of corporate priorities. The Council has developed a robust approach to providing value for money and efficiency savings to support the delivery of the Council Plan and the Medium Term Financial Strategy.

### **5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)**

5.1 Continuous review and management of the budget and associated performance issues mitigate the risk of not achieving corporate priorities.

5.2 The five year proposed programme is ambitious and will require the Council to use much of its available resources. Substantial investment of this nature will result in the Council being exposed to additional risks as follows:

- a significant increase in the authority's borrowing over the next five years;

- exposure to interest rate changes; a 0.5% increase in interest rates will increase the cost of borrowing on projected 2018/19 spend by **£0.939m** per annum;
- major schemes have a long payback period which will require the use of reserves in the early years to fund short term deficits in business plans;
- the cost of feasibility studies are all undertaken at risk;
- schemes may not cover their costs or make the desired return.

5.3 In order to manage these risks the following key principles will be adopted in managing the programme:

- new projects (unable to cover their costs) added to the programme, will result in an existing project being removed or amended;
- all projects must have a robust and viable full business case, which considers and includes whole life costing and revenue implications;
- all schemes will be subject to robust and deliverable business plans and models which demonstrate the necessary return on investment required;
- the decision to progress schemes will be dependent on securing the stated level of external funding or grant as appropriate;
- new projects will be considered where the Council can make a return on investment;
- where new sources of external funding/grants become available, the programme will be revisited;
- all schemes will be subject to an independent internal 'Gateway review process'

5.4 The City Council recognises the importance of individual and collective accountability and requires managers to formally acknowledge their responsibilities. Financial management is an integral aspect of effective leadership and good management, relevant councillors and managers are required to participate fully in all aspects of capital investment plans.

5.5 Corporate Directors will be accountable for the success and deliverability of all capital projects within their remit; including:

- ownership of business cases and any subsequent changes to them;
- ensuring that capital projects are delivered in line with agreed targets and resources;
- the successful outcome and benefits realisation of capital projects.

## **6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE)**

6.1 None.

## **7 SOCIAL VALUE CONSIDERATIONS**

7.1 None.

## **8 REGARD TO THE NHS CONSTITUTION**

8.1 None.

## **9 EQUALITY IMPACT ASSESSMENT (EIA)**

9.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because:

The report does not contain proposals for new or changing policies, services or functions

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

**10 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)**

10.1 None.

**11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT**

11.1 Medium Term Financial Plan 2018/19 – 2020/21 – Executive Board 20 February 2018

**12 OTHER COLLEAGUES WHO HAVE PROVIDED INPUT**

12.1 Jo Worster – Team Leader (Strategic Finance)

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Portfolio	POSITION TO THE END OF P3 (JUNE)		YEAR END FORECAST POSITION	
	Updated Estimate	Profiled Estimate	Estimated Outturn	Variance (under)/ over
Adult Social Care & Health	(19.226)	(3.271)	(19.058)	0.168
Community Protection	16.739	4.406	16.435	(0.304)
Early Intervention & Early Years	8.430	(4.131)	9.261	0.831
Education & Skills	58.087	18.390	59.128	1.041
Energy & Environment	2.520	4.120	3.481	0.961
Finance, Resources & Commercial Services	86.438	26.615	86.449	0.011
Housing & Planning	1.911	(0.178)	2.102	0.191
Leisure & Localities	17.068	3.879	16.725	(0.343)
Regeneration & Growth	8.569	1.377	8.747	0.178
Transport & HR	23.115	8.344	22.908	(0.207)
<b>Total Portfolios</b>	<b>203.651</b>	<b>59.550</b>	<b>206.178</b>	<b>2.527</b>
Corporate Budgets	42.711	4.252	42.675	(0.036)
<b>Total General Fund</b>	<b>246.363</b>	<b>63.802</b>	<b>248.854</b>	<b>2.491</b>

**Portfolio Variances +/- £50k****Adult Social Care & Health Portfolio – overall variance £0.168m adverse****Adults £0.365m adverse**

Gross overspend of **£0.642m** is due to:

- **£0.402m** increase in care packages, this is due to actual activity and estimated demand and complexity changes for the remainder of 2018/19 based on 2017/18 levels.

There is currently a shortfall against the transport savings within the 2018/19 MTFP however in year mitigation has been identified to meet this shortfall and full achievement is expected in 2019/20.

- **£0.150m** savings shortfall against the **£1m** Partnership Working MTFP. Use of non-recurrent ASC Grant of **£0.850m** is mitigating the majority of this saving, there is currently no plan to deliver the balance of **£0.150m**.
- **£0.090m** cost relating to increased contractual commitments resulting from increased activity levels within the Northgate contract.

The overspend is partly being mitigated by:

- **(£0.277m)** underspends against staffing and service budgets resulting predominantly from posts being held at the beginning of the year and slippage in recruitment timeframes.

**Housing Related Support £0.246m favourable**

- Contractual savings offsetting an overspend within Homelessness Contracts.

**Community Protection Portfolio – overall variance £0.304m favourable****Community Cohesion £0.065m adverse**

- Budget pressure within the service due to a reduction in grant funding but increased need for the service including a Hate Crime officer

**Licensing, Trading Standards & Anti Social Behaviour £0.100m adverse**

- Income shortfall due to lack of licensing applications – a direct and conscious consequence of tighter policies

**Police Partnership £0.223m favourable**

- Management of vacancies

**Uniformed Services £0.161m favourable**

- Vacancies within the service

**Security & Logistics £0.100m favourable**

- Business Plan achievement due to increased efficiencies within the service

**Early Intervention & Early Years Portfolio – overall variance £0.831m adverse****Children's £0.453m adverse**

Gross overspend of **£3.533m** is due:

- **£4.258m** Children in Care costs;
- **(£0.725m)** other Children Integrated Service under spends.

This overspend will be mitigated by an action plan to reduce Children in Care costs by **£3.080m** by:

- Reducing high cost placements;
- Increasing foster carers and
- Reducing the costs of semi independence.

**Inclusive Learning £0.341m adverse**

- Short fall in income targets and slippage in staffing savings

**Education & Skills Portfolio – overall variance £1.041m adverse**

**Education Partnerships £0.816m adverse**

- Shortfall in income targets of **£0.425m**
- Increase in complexity and demand on SEN transport - **£0.312m**
- Increase in demand for mainstream Childrens transport - **£0.104m**

In year mitigation is being actioned to reduce this overspend and will be updated in quarter 2 reporting.

**School Improvement £0.205m adverse**

- Short fall in income targets

**Inclusive Learning £0.017m adverse**

- Short fall in income targets and slippage in staffing savings

**Energy & Environment Portfolio – overall variance £0.961m adverse**

**Energy Services £1.159m adverse**

- Waste disposal budget and utilities budget are forecasting in accordance with the planned expenditure of **£1.159m**, which is due to notified inflationary pressures excluded from the budget process for 2018/19. The pressure is being monitored, and mitigating plans including reduced usage are being put into place. Therefore the pressure has reduced from an estimated **£1.377m** in Period 2 by **£0.218m**

**Neighbourhood Services Management £0.095m favourable**

**Street Scene & Grounds Maintenance £0.186m adverse**

- Forecast to be over budget by **£0.090m** which is primarily staffing costs. Vacancies are being managed within year and this service is expected to achieve budget by the year end.

**Waste Management £0.343m favourable**

- Business Plan achievement due to increased income growth, however there are also further efficiencies within Domestic Waste, these efficiencies aim to cover the increased demand of additional houses, and increased waste.

**Finance, Resources & Commercial Services Portfolio – overall variance £0.011m adverse**

**Commissioning & Procurement £0.122m favourable**

- Vacancy savings within Commissioning & Procurement

**Strategic Finance £0.115m adverse**

- Audit & Risk **£0.053m** favourable
  - Vacancy savings within the Audit & Fraud team.

- Commercial Finance **£0.200m** adverse
  - Contractual increases for Revenue and Benefits delivery.
- Director of Finance **£0.032m** favourable
  - Vacancy savings within the Training & Improvement team.

**Strategy & Policy £0.094m adverse**

- Strategy & Policy **£0.101m** adverse
  - Unachieved saving

**Civic & Coronial Services £0.169m favourable**

- Savings on the histology and toxicology contracts

**Commissioning & Procurement £0.328m adverse**

- **£0.220m** contractual overspend on Financial Vulnerability.
- **£0.115m** unachieved income target
- The above has been partly mitigated by vacancy savings.

**Nottingham Catering £0.205m favourable**

- Business Plan achievement due to increased income growth

**Facilities & Building Services £0.070m favourable**

- Business Plan achievement due to increased efficiencies, and projected contract savings

**Housing & Planning Portfolio – overall variance £0.191m adverse**

**Customer Access Programme £0.169m adverse**

- Unallocated Customer Access Programme saving

**Leisure & Localities Portfolio – overall variance £0.343m favourable**

**Cemeteries & Crematoria £0.099m favourable**

- Commercial & Operation's strategy is to focus on commercialism and driving external income. A combination of delivery against business plans has seen an overall positive variance

**Libraries £0.147m favourable**

- Business Plan achievement due to increased efficiencies, and improved processes within the Libraries service

**Markets £0.302m adverse**

- INTU have significantly increased the service charges for the Victoria Market repeatedly over recent years. The higher stall rents has resulted in an increased number of vacant stalls.

**Museums £0.148m favourable**

- Business Plan achievement due to increased income growth, however there is a risk associated with the achievement linked to the Castle closure.

**Sports & Leisure £0.282m favourable**

- Business Plan achievement due to increased income growth

**Regeneration & Growth Portfolio – overall variance £0.178m adverse**

### **Crime & Drugs Partnership £0.192m adverse**

- **£0.040m** staffing overspend
- **£0.152m** – slippage in implementation of Public Health savings

### **Transport & HR Portfolio – overall variance £0.207m favourable**

#### **Human Resources £0.408m favourable**

- Vacancy savings due to HR&T restructure

#### **Organisational Transformation Directorate £0.348m adverse**

- Unachieved saving (including shortfall on schools income)

#### **Highways and Energy Infrastructure £0.200m favourable**

- The business plan in Highways of **£0.200m favourable** is forecast to be achieved; plans are in place working towards this target.

#### **Neighbourhood Services £0.052m adverse**

- Parking, Transport and Fleet **£0.190m** favourable
  - Business Plan achievement in Parking due to increased income growth. The Business Plan activity is being achieved in Fleet however; this is being targeted against an approximate **£0.220m** pressure against fuel, and **£0.075m** pressure against parts. Both of these areas did not achieve any inflation uplift as part of the budget setting process and form part of the pressures being managed departmentally.
- Workplace Parking Levy **£0.242m** adverse

Debtors - Performance Review – 2018/19		Q1 June	Q2 September	Q3 December	Q4 March
<b>BVPI 66a - Housing Rent Collection (%)</b> <i>(cumulative - current tenants only)</i>					
	<i>(arrears + debit)</i> Actual	97.09			
	Target	98.50			
	Last Year Actual 2017/18	97.27	97.96	98.57	98.41
<b>BVPI 9 - Council Tax Collection (%)</b>					
	<i>(in year cumulative)</i> Actual	26.10			
	Target	26.10			
	Last Year Actual 2017/18	26.35	50.96	76.78	93.16
<b>BVPI 10 - NNDR Collection (%)</b>					
	<i>(in year cumulative)</i> Actual	27.34			
	Target	28.50			
	Last Year Actual 2017/18	28.17	56.11	83.05	98.67
<b>Sundry Income Collection (%)</b>					
	<i>(12 month rolling average)</i> Actual	79.00			
	Target	99.00	99.00	99.00	99.00
	Last Year Actual 2017/18	83.30	81.20	83.00	82.60
<b>Sundry Income Debtor Days –General</b>					
	Actual	31.00			
	<i>(12 month rolling average)</i> Target	32.30	32.30	32.30	32.30
	Last Year Actual 2017/18	31.00	34.00	38.00	41.00
<b>Estates Rents Collection (%)</b>					
	Actual	97.94			
	<i>(12 month rolling average)</i> Target	97.50	97.50	97.50	97.50
	Last Year Actual 2017/18	95.54	94.93	96.29	97.48
<b>Adult Residential Services Collection (%)</b>					
	Actual	97.90			
	<i>(12 month rolling average)</i> Target	95.90			
	Last Year Actual 2017/18	95.31	94.25	90.86	92.70

**VIREMENT 2018-19 REQUIRING EXECUTIVE BOARD APPROVAL**

**APPENDIX D**

Details	Net Amount £m	Department		Portfolio	
		From	To	From	To
<b>Operational virements prior to changes in Portfolio arrangements</b>					
Savings realignment	0.025	CA	SR	ADH	RNR
	0.208	CA	SR	ADH	ELY
	0.030	Corporate	SR	within RNR	
	0.156	within SR		C&CS	RNR
	0.038	SR	Corporate	within RNR	
	0.026	CA	SR	ADH	RNR
	0.079	CA	Corporate	ADH	RNR
	0.016	within SR		RNR	C&CS
	0.016	within SR			SI&C
	0.520	Corporate	SR		C&CS
	0.015		SR		C&CS
	0.114		CO		NST
	0.023	within SR			C&CS
	0.017	SR	Corporate	within RNR	
	0.023	DG			
	0.004	SR		RNR	SI&C
	0.052	within SR		SI&C	RNR
	0.270	CO	Corporate	within RNR	
	0.047	Corporate	CA	RNR	ELY
	0.071	within SR		C&CS	RNR

Details	Net Amount £m	Department		Portfolio		
		From	To	From	To	
realignment of training budget	0.002	within CA		ELY	ADH	
Pay Model adjustments	0.069	Corporate	CA	RNR	ADH	
	0.001	DG	Corporate	BES	RNR	
	0.063	Corporate	SR	RNR	C&CS	
	0.005		SR	RNR	C&CS	
	0.035		CO	RNR	LCT	
	0.031		DG	within RNR		
	0.017		SR	within RNR		
	0.411		CA	RNR	ELY	
	0.002		DG	RNR	NST	
	Pension Strain consolidation		0.107	CA	Corporate	ADH
0.009			DG	BES		
0.038			SR	C&CS		
0.002		CO	C&CS			
0.088		CO	LCT			
0.022		DG	PLNH			
0.062		SR	within RNR			
0.025		DG	within RNR			
0.068		CO	within RNR			
0.072		DG	NST	RNR		
0.130		CO	NST			
0.009		DG	SI&C			
0.150		SR	within RNR			
0.153		CA	ELY	RNR		
Direct Payments	0.059	SR	CA	RNR	ADH	

Details	Net Amount £m	Department		Portfolio	
		From	To	From	To
Technical Adjustment for qualifying holiday payments	0.010	Corporate	CA	RNR	ADH
	0.001		SR		BES
	0.005		SR		C&CS
	0.008		CO		C&CS
	0.001		CO		ESU
	0.008		CO		LCT
	0.001		DG		PLNH
	0.001		SR	within RNR	
	0.002		CO	RNR	NST
	0.001		DG		ELY
	0.024		CA		NST
	0.011		CO		
	ESG funding adjustment		0.033	CA	DG
1.000		within CA		ELY	BES
Pressures realignment (Homelessness)	0.024	within DG		BES	PLNH
	0.057			NST	
	0.032			SI&C	
Employee budget realignment b/t HR & Community Engagement	0.030	SR	CO	within C&CS	
Employee budget realignment b/t Business Development & Community Engagement	0.036	within CO		NST	C&CS
Employee budget realignment b/t Community Cohesion & Neighbourhood Management	0.047	within CO		C&CS	RNR
Employee budget realignment b/t Support Services & Energy Services	0.049	within CO		NST	ESU

Details	Net Amount £m	Department		Portfolio	
		From	To	From	To
Employee budget realignment b/t Access to Services & Libraries	0.139	DG	CO	RNR	LCT
Employee budget realignment b/t Parks & Streetscene	0.377	within CO		LCT	NST
Employee budget realignment b/t HR & Corporate Policy	0.099	within SR		C&CS	SI&C
Employee budget realignment b/t Facilities and Civic & Coronial	0.111	CO	SR	within RNR	
Structural Changes within Community Protection	0.047	within CO		RNR	C&CS
Realignment between Streetscene; Domestic Waste & Depots	0.080	within CO		RNR	NST
	0.080			ESU	NST
Operational realignment within Neighbourhood Services Directorate	0.039	within CO		NST	ESU
	0.036				RNR
Fleet Budgets realignment	0.360	within CO		NST	ESU
	0.021				RNR
Events funding	0.050	within CO		NST	LCT
Catering Equipment adjustment	0.004	DG	CO	SI&C	NST
Corporate income realignment	1.000	DG	Corporate	NST	RNR
Realignment between City Advertising and Commissioning & Procurement	0.030	within SR		RNR	ELY
Prudential Borrowing technical adjustment	3.638	DG	Corporate	SI&C	RNR
	0.023			within RNR	
Strategy & Policy realignment	0.030	within SR		ELY	RNR
Materials budget realignment	0.005	CO	SR	within RNR	

Details	Net Amount £m	Department		Portfolio	
		From	To	From	To
<b>Transfer of Services resulting from changes in Portfolio arrangements</b>					
Adults Directorate	0.182	within CA		ADH	ASCH
Adult Social Care	46.746				
Quality & Change	44.326				
Public Health	(11.015)				
Commissioning & Procurement (Housing Related Support)	6.208	within SR			
Major Projects - Building Schools for the Future	0.140	within DG		BES	ES
Economic Development (Business Growth; Partner & Policy)	1.613				RG
Education	2.092				ES
Community Protection	11.765	within CO			CP
IT	3.839	within SR		C&CS	THR
Human Resources & Transformation	4.287				HP
Customer Access Programme	0.342				RG
Crime & Drugs Partnership	0.985				ES
One Nottingham	0.075				
Commercial & Infrastructure	9.859	within CO		ESU	EE
Waste Management	1.380	within CO		LCT	LL
Neighbourhood Services (part)	0.424				
Sport & Culture	6.825				
Tourism	0.223	within DG			

Details	Net Amount £m	Department		Portfolio	
		From	To	From	To
Commissioning & Procurement	0.216	within SR		PLNH	HP
Economic Development (Housing)	1.464	within DG			
Planning	(0.163)				
Traffic & Safety Flood Risk	0.171	within CO		RNR	EE
Facilities & Building Services	2.132				
Planned Maintenance Budget	3.453				
Major Projects - Access to Services	0.760	within DG			
Information Management	0.547	within SR			
Legal and Governance	2.490				
Finance	8.379				
Corporate & Democratic Core	0.607				
Civic & Coronial Services	1.092				
Executive & Majority Support	0.419				
Strategy & Policy	1.420	within CX			
Commissioning & Procurement	1.019				
Chief Executive's Office	0.258	within CO		LL	
Neighbourhood Management	1.191	within DG		RG	
Development & Growth Directorate	0.285				
Commercialism Schemes	(1.356)	within SR		RG	
Emergency Planning	0.234				

Details	Net Amount £m	Department		Portfolio	
		From	To	From	To
Traffic & Transport	13.814	within DG		NST	THR
Major Projects (Street Lighting)	3.697				
Highways & Energy Infrastructure	(0.073)				
Neighbourhood Services (Parking & Transport related)	(13.346)	within CO			FRCS
C&C Support Services	0.889				
Business Development & Innovation	0.775				
Neighbourhood Services (Nottingham Catering)	(0.986)				
Neighbourhood Services (Street Scene; Grounds Maintenance & Directorate Mgt)	5.419				
Neighbourhood Services (Security & Logistics)	0.919				
Neighbourhood Services (Woodfield Supported Employment)	0.170	within DG	SI&C		RG
Major Programmes	0.072				
Strategic Assets & Property	(21.465)				
Planning (GF Regeneration)	0.076				
NET Project	(0.011)				
Corporate Policy	0.277	within SR		THR	
Marketing & Communications and City Advertising	0.957			RG	

Details	Net Amount £m	Department		Portfolio	
		From	To	From	To
<b>Operational virements after changes in Portfolio arrangements</b>					
Savings realignment	0.011	within CA		ASCH	ELY
	0.020	within CO		CP	FRCS
	0.069			EE	
	0.025			LL	
	0.290			FRCS	EE
	0.006	within DG		HP	RG
	0.070	DG	SR	RG	FRCS
	0.008	within DG		THR	RG
	0.019	CO	SR	THR	FRCS
	0.098	within SR		within FRCS	
Realignment b/t Business Development and Community Engagement	0.003	within CO		FRCS	CP
Parks & Streetscene integration	0.102	within CO		LL	EE
	0.051			LL	THR
Utilities realignment	0.841	within CO		EE	LL
Employee budget realignment b/t Strategy & Improvement and Commissioning & Procurement	0.023	CA	SR	ELY	FRCS
Employee budget realignment b/t Strategy & Improvement and School Improvement	0.043	within CA		ELY	ES
Employee budget realignment b/t Civic & Coronial and Customer Access Programme	0.047	within SR		FRCS	HP
Employee budget realignment b/t Information Management & Legal	0.005	DG	SR	RG	FRCS
	0.221			within FRCS	
	<b>158.976</b>				

Portfolio	Key
<b>Former Portfolios</b>	
Adults and Health	ADH
Business, Education & Skills	BES
Community & Customer Services	C&CS
Early Intervention & Early Years	ELY
Energy & Sustainability	ESU
Leisure & Culture	LCT
Neighbourhood Services & Local Transport	NST
Planning, Housing & Heritage	PLNH
Resources & Neighbourhood Regeneration	RNR
Strategic Infrastructure & Communications	SI&C
<b>New Portfolios</b>	
Adult Social Care & Health	ASCH
Community Protection	CP
Energy & Environment	EE
Education & Skills	ES
Finance, Resources & Commercial Services	FRCS
Housing & Planning	HP
Leisure & Localities	LL
Regeneration and Growth	RG
Transport and HR	THR

Department	Key
Children & Adults	CA
Commercial & Operations	CO
Chief Executive	CX
Development & Growth	DG
Strategy & Resources	SR
Housing Revenue Account	HRA

<b>QUARTER 1 APPROVALS</b>				
	<b>2018/19 £m</b>	<b>2019/20 £m</b>	<b>2020/21 - 2022/23 £m</b>	<b>Total £m</b>
<b>Public Sector Housing</b>				
HRA Shop Investment Strategy	0.030	0.000	0.000	<b>0.030</b>
<b>Public Sector Housing - TOTAL</b>	<b>0.030</b>	<b>0.000</b>	<b>0.000</b>	<b>0.030</b>
<b>Education / Schools</b>				
Estate Review Schools	0.120	0.000	0.000	<b>0.120</b>
Welbeck Primary Roof	0.300	0.000	0.000	<b>0.300</b>
Hempshill Hall	0.075	0.000	0.000	<b>0.075</b>
Henry Whipple Roof	0.100	0.000	0.000	<b>0.100</b>
Robin Hood Primary Fence	0.025	0.000	0.000	<b>0.025</b>
Claremont Primary Fire Door	0.025	0.000	0.000	<b>0.025</b>
Rise Park Primary Asbestos	0.070	0.000	0.000	<b>0.070</b>
Rufford Primary Roof	0.150	0.000	0.000	<b>0.150</b>
Cantrell Primary Water Leak / Asbestos	0.025	0.000	0.000	<b>0.025</b>
Haydn Primary Water Leak / Asbestos	0.025	0.000	0.000	<b>0.025</b>
Rufford Primary Fire Alarm	0.070	0.000	0.000	<b>0.070</b>
<b>Education / Schools - TOTAL</b>	<b>0.985</b>	<b>0.000</b>	<b>0.000</b>	<b>0.985</b>
<b>Other Services</b>				
<b>Community Services</b>				
Markets & Clinton Street Upgrades	0.041	0.000	0.000	<b>0.041</b>
<b>Adults Health &amp; Community Sector</b>				
Foster Carers Building Work	0.030	0.000	0.000	<b>0.030</b>
<b>Energy &amp; Sustainability</b>				
Low Emission Fleet Project	2.815	0.000	0.000	<b>2.815</b>
<b>Lesiure &amp; Culuture</b>				
Nottingham Castle Transformation	0.920	0.533	0.000	<b>1.453</b>
Forest Rec Ground	0.198	0.000	0.000	<b>0.198</b>
Bilborough Park Play Area	0.187	0.000	0.000	<b>0.187</b>
Mill & Windmill Allotments	0.015	0.000	0.000	<b>0.015</b>
Nottm WW1 ROH Memorial	0.320	0.000	0.000	<b>0.320</b>
S106 - Affordability Housing (Lenton)	0.240	0.000	0.000	<b>0.240</b>
<b>Strategic Regeneration &amp; Development</b>				
Handel Street Dilpad	0.151	0.000	0.000	<b>0.151</b>
<b>Other Services - TOTAL</b>	<b>4.917</b>	<b>0.533</b>	<b>0.000</b>	<b>5.450</b>
<b>Quarter 1 Approvals - Total</b>	<b>5.932</b>	<b>0.533</b>	<b>0.000</b>	<b>6.465</b>

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<b>Subject:</b>	<b>IMPLEMENTATION OF PROPOSED SCHEME OF ADDITIONAL LICENSING OF HOUSES IN MULTIPLE OCCUPATION</b>
<b>Corporate Director(s)/Director(s):</b>	Chris Henning, Corporate Director for Development & Growth Andy Vaughan, Corporate Director for Commercial & Operations Andrew Errington, Director for Community Protection
<b>Portfolio Holder(s):</b>	Councillor Jane Urquhart, Portfolio Holder for Housing and Planning Councillor Toby Neal, Portfolio Holder for Community Protection
<b>Report author and contact details:</b>	Ceri Davies, Housing Strategy Specialist <a href="mailto:Ceri.davies@nottinghamcity.gov.uk">Ceri.davies@nottinghamcity.gov.uk</a> 0115 8763530
<b>Subject to call-in:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Key Decision:</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Criteria for Key Decision:</b>	
(a)	<input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
<b>and/or</b>	
(b)	Significant impact on communities living or working in two or more wards in the City <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Type of expenditure:</b>	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
<b>Total value of the decision:</b>	<b>£3,309,210</b>
<b>Wards affected:</b>	Arboretum, Berridge, Bridge, Dales, Dunkirk & Lenton, Mapperley, Radford & Park, Sherwood, St Ann's, Wollaton East & Lenton Abbey in respect of Additional Licensing.
<b>All Wards</b>	in respect of Licence Conditions
<b>Date of consultation with Portfolio Holder(s):</b>	<b>20/08/2018</b>
<b>Relevant Council Plan Key Theme:</b>	
Strategic Regeneration and Development	<input type="checkbox"/>
Schools	<input type="checkbox"/>
Planning and Housing	<input checked="" type="checkbox"/>
Community Services	<input type="checkbox"/>
Energy, Sustainability and Customer	<input type="checkbox"/>
Jobs, Growth and Transport	<input type="checkbox"/>
Adults, Health and Community Sector	<input type="checkbox"/>
Children, Early Intervention and Early Years	<input type="checkbox"/>
Leisure and Culture	<input type="checkbox"/>
Resources and Neighbourhood Regeneration	<input type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>	
<p>This report informs Executive Board of the outcomes of the consultation that has taken place on proposals for a new scheme of Additional Licensing of Houses in Multiple Occupation (HMOs) to operate for 5 years from January 2019.</p> <p>Implementation of the proposed scheme will mean that an estimated 2,500 HMOs in the designated area that are not subject to Mandatory Licensing (i.e. HMOs with 3 or 4 people sharing and certain small blocks of flats) will be required to obtain a licence.</p> <p>The implementation of the proposed scheme will allow for these properties and their operation to be subject to proactive licensing requirements that would not otherwise be available and contribute to the Council continuing to deliver and build on the following benefits:</p> <ul style="list-style-type: none"> <li>• higher standards of HMO accommodation and ensuring effective management through more extensive control;</li> <li>• protecting the health, safety and well being of tenants and communities;</li> <li>• neighbourhood improvement and the prevention and control of anti-social behaviour;</li> <li>• easier identification of rogue landlords and enabling action to be taken to respond to this</li> </ul>	

behaviour;

- completing a full suite of private sector licensing schemes, allowing for a consistent and robust approach to raising standards.

The report also makes recommendations relating to the Council's standard conditions for HMOs and licence fees that will apply to both Mandatory and Additional Licensing schemes.

**Exempt information: State 'None' or complete the following**

None

**Recommendation(s):**

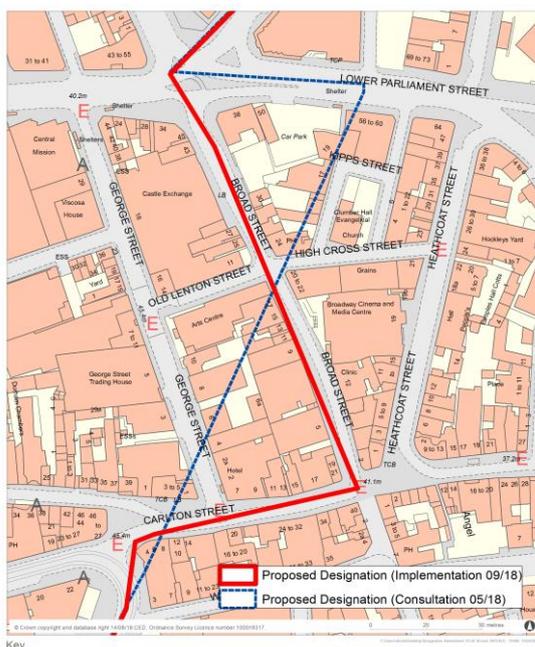
- 1** To consider the Consultation Analysis (Appendix IA) and also the responses regarding objections to the consultation proposal (Appendix IB)
- 2** To confirm that the Board is satisfied that:
  - (a) a significant proportion of HMOs in the proposed designated area are being managed sufficiently ineffectively as to give rise to problems (such as disrepair, noise and litter) either for those occupying the HMOs or members of the public; and
  - (b) making HMOs in that area subject to Additional Licensing will significantly assist the Council to deal with those problems.
- 3** That the area designated on the plan attached to the proposed Designation in Appendix 2 be made subject to Additional Licensing, with the Designation to come into force on 1 January 2019 and to run for a period of 5 years with applications being accepted from 1 December 2018.
- 4** That the Director of Legal and Democratic Services be authorised to make the Designation.
- 5** That the Corporate Directors for Development and Growth and Commercial and Operations be authorised to take all necessary steps (statutory or otherwise) to publish and advertise the Designation.
- 6** That the Standard Conditions of Licence for both Additional Licensing and Mandatory Licensing outlined in Appendix 3, be adopted for licences granted on or after 19 September 2018.
- 7** To grant delegated authority to the Director of Community Protection to make changes to the operational delivery of the scheme during its five-year lifetime, which includes changes to the expenditure from within the agreed overall budget, recruitment, licence conditions, structural service change and fee review. Such delegated authority to be exercised in consultation with the relevant Portfolio Holder, where appropriate, and/or in accordance with constitutional requirements.
- 8** To agree the resources and operational model detailed in Appendix 4.
- 9** That the outcomes from the scheme be monitored and a full evaluation take place during the duration of the scheme with the results of the evaluation to be reported to the Executive Board in 2021/22 to enable it to take a decision as to a proposed course of action prior to the Designation expiring on 31 December 2023.
- 10** To **approve** the establishment of the scheme over the five-year period, with an estimated value of **£3,309,210** and to **approve** the spend as detailed in sections 4.6 of this report from **1<sup>st</sup> January 2019** until the end of the Additional Licensing scheme on **31<sup>st</sup> December 2023**.

# 1 REASONS FOR RECOMMENDATIONS

- 1.1 The consultation has shown overall support for the proposal. Residents within the Designation and Tenants of HMOs showed strongest agreement with and support for the proposals, with their experience and views arguably warranting significant weight. The views of those opposed to the scheme have been fully taken into account and a full table of issues raised and the Council's response to these appears in Appendix 1B. The themes of the objections or opposing comments strongly echo those of the last, 2013-2018, scheme consultation.
- 1.2 With regard to the statutory tests, each is considered to have been met as follows:

**1.2.1 Consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public:** it is considered that this test is met. These issues were addressed in paragraphs 2.4.4 – 2.4.7 of the April Report which outlined that the proposed designated area was based around census output areas containing at least 10 or more non-mandatory licensed HMOs where 20% or more had received at least one complaint relating to various environmental, disrepair overcrowding or ASB issues between 1 January 2014 and December 2017. The area had further been defined by reference to natural and physical boundaries to arrive at a coherent and precise boundary for the designation. This approach is the same as was used for the current scheme of Additional Licensing and which withstood judicial review.

1.2.2 As indicated above the area to be designated has been defined by reference to natural and physical boundaries, the designation consulted upon incorrectly showed the boundary of the designation to the north west of the Lace Market area crossing through buildings rather than aligning with the streets as a natural or legible boundary. This has been rectified in the Plan attached to the Designation at Appendix 2 and does not expand the designation to any buildings or areas beyond those already covered or immediately abutting that shown in the consultation.



**1.2.3 Have regard to any information regarding the extent to which any codes of practice approved under section 233 have been complied with by persons managing HMOs in the area in question.** As there is general compliance properties which comply with the approved Codes of Practice covering large purpose built and converted student accommodation and larger developments and which are administered by Accreditation Network UK (ANUK) were excluded from the current scheme of Additional Licensing. It is proposed that they continue to be excluded from the requirement to obtain a licence within the new Designation as indicated in paragraph 2.5.1 of the April Report.

**1.2.4 Consider whether there are any other courses of action available (of whatever nature) that might provide an effective method of dealing with the problem or problems in question:** paragraphs 2.6.1 to 2.6.5 of the April Report outlined the range of schemes, accreditation and initiatives that have been operated with a view to improving engagement with landlords and property management and conditions. A review of the existing scheme of Additional Licensing and responses to the consultation indicate that the additional activity undertaken and the means/tools available with Additional Licensing have allowed outcomes that would not otherwise have been possible. It also concluded that this progress would be unlikely to be sustained in the absence of such a scheme. Further, a proactive as opposed to reactive approach and the benefits this entails for all stakeholders would not be possible with basic powers or standard regulation.

**1.2.5 Consider that making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well):** There are powers that are available within legislation to deal with poor conditions, poor management of HMOs and anti-social behaviour. As indicated in paragraphs 2.6.3 to 2.6.5 of the April Report these include, for example, requiring works to be carried out and prosecution. such powers are usually used reactively following complaint. Undertaking reactive work is more resource intensive and only deals with problems once they have arisen. Additional Licensing provides additional powers that significantly assist in dealing with poor management of properties, allowing the Council to continue to improve standards of management in this sector by requiring licence holders to be more proactive in their approach.

Benefits of licensing include:

- owners will proactively provide information on the location and details of the HMO they are responsible for;
- landlords have to be assessed as fit and proper to manage ;
- clear and explicit standards (some of which would otherwise not be required) are introduced that will improve the safety poorly managed accommodation and its impact on the neighbourhood;
- identifying and tackling issues under the Housing Health and Safety Rating System (HHSRS) when properties are inspected for licensing purposes, issues. (N.B. this is not covered by the licence fee). This will help to prevent hazards to health and contribute to Council objectives relating to the reduction of excess winter deaths, fuel poverty, falls, and reducing crime and anti social behaviour.

- an increased ability to provide information to landlords about good practice but also increased enforcement tools which can be used against non-compliant or rogue landlords such as prosecution for failure to licence and failure to comply with licensing conditions, potentially driving them out of the market.
- power to inspect properties that would not otherwise been inspected unless complaints had been received.

The outputs of the 2014-2018 scheme (to end of year 4, December 2017) of Additional Licensing with regard to issue of licences, inspections, issue of safety certificates and enforcement activity are detailed in the April Report at paragraphs 2.3.1 to 2.3.11.

In the first 6 months of year 5 (January 2018 to June 2018) a further 111 applications have been received, 142 licenses issued, 13 licenses refused and 5 licenses revoked; a further 1065 safety documents have been inspected and verified and 84 compliance visits made. The overall percentage of applications that have required a finder's fee has risen 12 percent (to 23%) as a result of this periods work.

**1.2.6 Consult persons likely to be affected by the proposal.** Consultation was carried out with full regard to MHCLG guidance.

**1.2.7 Ensure that the exercise of the power is consistent with their overall housing strategy; and seek to adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by them or other:**

The ways in which the making of the Designation meets this test were set out in paragraph 2.7.1-of the April Report. Furthermore, the implementation of a scheme of Additional Licensing is complementary to Nottingham's existing schemes of Mandatory and Selective Licensing, allowing for a robust and consistent approach to improving the quality of private sector rented properties, which is one of the Council's key strategic housing objectives. The proposed scheme is also important in ensuring the provision of decent standards in affordable or lower cost accommodation which accommodates vulnerable households and is a solution to homelessness. The proposed scheme is consistent with regeneration objectives: the Council needs to ensure that parts of the city which are being regenerated are not undermined by poor quality, ineffectively managed shared housing. Finally, Additional Licensing provides an additional tool in addressing anti-social behaviour in that the licence conditions require them to enforce tenancy conditions robustly and deal effectively with ASB perpetrated by their tenants.

1.2.8 In light of the above it is considered that the proposed Designation meets the relevant statutory tests and that it is appropriate and proportionate for it to be adopted. In addition to the exemption proposed in paragraph 2.2.3 above relating to properties managed by ANUK it is also recommended that the Designation exclude section 257 HMOs for the reasons indicated in paragraph 2.5.2 of the April Report and paragraph 2.6.6 below

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

2.1 The background to this proposal is covered comprehensively in the report that was considered by Executive Board in April 2018 (the "April Report"):

The April Report outlined the outcome of an evidence gathering exercise, looking at whether there was a need to continue either the existing or another scheme of Additional Licensing of HMOs for a further 5 years from January 2019. It set out the statutory tests that need to be met in order to adopt a scheme. These are that the Authority:

- (a) must consider that a significant proportion of the HMOs of the relevant description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise to one or more particular problems either for those occupying the HMOs or for members of the public;
- (b) must have regard to any information regarding the extent to which any codes of practice approved under section 233 of the Housing Act 2004 have been complied with by persons managing HMOs in the area in question;
- (c) must consider whether there are any other courses of action available to it (of whatever nature) that might provide an effective method of dealing with the problem or problems in question;
- (d) must consider that making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well);
- (e) must have consulted persons likely to be affected by the designation;
- (f) must ensure that the exercise of the power is consistent with the Authority's overall housing strategy; and
- (g) must seek to adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by them or others.

These tests remain applicable to the consideration of this report and are addressed more fully below.

2.2 The April Report documented how evidence had been collected and analysed from complaints data relating to HMOs outside of Mandatory Licensing. The data suggested that test (a) above was met and a scheme of Additional Licensing was appropriate in an area which was subsequently agreed as the proposed area for designation. This area comprised the 2014-18 designated area plus some additional areas of Sherwood, St Anns, New Basford and the City Centre.

2.3 The April Report also documented how the other tests were considered to be met, and gave officers the authority to carry out a statutory consultation on the proposal; this took place for 11.5 weeks between May and July 2018.

2.4 The consultation followed the guidance issued by the Department of Communities and Local Government (now Ministry of Housing, Communities and Local Government) (MHCLG) on consulting on proposed schemes of additional licensing and took the form of:

- web based consultation and on-line survey (the principal methodology);
- the distribution of information leaflets within the proposed designation
- invitation for written submissions; and attendance at meetings within communities and with stakeholders.

## Consultation

2.5 A full report of the consultation results is at Appendix I. The key findings were as follows:

- A majority of survey respondents, 65%, strongly agreed or agreed that the proposed scheme should be implemented.
- A majority of survey respondents (64% and 66% respectively) strongly agreed or agreed that Additional Licensing could help improve the management of HMOs and that improvements were needed.
- A majority of survey respondents agreed with the tiered fee structure (that is, fee levels according to level of engagement, from lowest fees for accredited landlords to the highest fee for landlords who have to be pursued)
- The majority of tenants and residents were supportive of the proposals and a majority of landlords opposed it. The tiered fee structure however was supported by tenants, residents and landlords.
- 10 written submissions were received, of which eight were supportive of the proposal, and two opposed. Some very significant local stakeholders were supportive of the scheme, for example the two universities. Landlord organisations were opposed to the proposals.
- The survey also allowed for additional comments which have been documented and analysed.
- 346 comments were provided in total across the 3 survey sections. Most comments were provided by those who agreed or strongly agreed with the questions. Many comments and comment topics were repeated in each section.
- In summary:

Those in favour of the proposals	Those opposed to the proposals
<p>Need more enforcement and increased landlord accountability.</p> <p>HMOs cause issues of ASB, disturbance, waste, issues with bins and property/garden condition.</p> <p>That the current scheme has made improvements and licensing is needed/should continue.</p> <p>That safe accommodation was important</p>	<p>That licensing is an income generating scheme for the councils</p> <p>That only bad landlords should be targeted/licensing won't address rogue landlords</p> <p>That existing powers are sufficient</p> <p>That licensing will increase rent</p>

Fuller details of objections to the proposal have been documented in the table in Appendix 1-B together with comments in response to these objections.

## 2.6 Operational Delivery

2.6.1 The April Report indicated that non-recoverable resources (see paragraph 4.6, Table 1) would be required to operationally deliver Additional Licensing should it be

agreed. Whilst the Board's general approval is being sought in relation to various operational issues outlined below it should be noted that operational matters are generally dealt with under delegated powers at both officer and Portfolio Holder level. The operation of the Additional Licensing scheme will be kept under review and may be subject to further change during the duration of the Scheme under such powers and in accordance with constitutional and statutory requirements.

2.6.2 Fees: In the light of experience with the current scheme of Additional Licensing, case law and in keeping with suggestions made by landlords in the past, it is proposed that a tiered fee structure replace the existing fee structure: accredited landlords pay a lower fee and consistently non-compliant landlords pay a higher fee, with a standard fee applying to non-accredited landlords who are compliant or have a history being less compliant. Proposals for a revised fee structure for both Additional and Mandatory licensing are dealt with in a separate report on this agenda, "Housing Licensing Houses in Multiple Occupation (HMO) Revised Fee Structure 2018".

2.6.3 Licence conditions: In light of both the review of Additional Licensing and forthcoming statutory changes to Mandatory Licensing the opportunity has been taken to review the standard licence conditions applied to all licences regulated under Part 2 of the Housing Act 2004. It is proposed that the conditions at Appendix 3 be approved for implementation for both Mandatory and Additional Licensing and be applied to any new or renewed licences for the two schemes and any licences that need to "passport" between the two schemes as a result of the statutory changes, with effect from the passing of recommendation number 6 above.

2.6.4 In addition to the standard conditions at Appendix 3 the Council can impose specific conditions tailored to the circumstances of a particular application. The Council wants to work with licence holders to ensure they possess the relevant skills and competence to manage their properties. Whilst not part of the proposed general conditions, a specific condition for licence holders to undergo training may be imposed in certain circumstances where it is felt necessary: for example, if the licence holder has received complaints about their property; enforcement action has been taken against them; or during the processing of the application there are concerns about the competency of the proposed licence holder. The Council will engage with training providers to consider suitable training that is available.

2.6.5 Operational Model. It is proposed that the Operational Model at Appendix 4 be approved for both Mandatory and Additional Licensing and be applied to any new or renewed licences granted under either scheme and to any licences that passport between the two schemes (e.g. where a HMO is currently licensed under the Additional Licensing scheme but will meet the new definition for mandatory Licensing from 1 October 2018).

The schemes will be aligned to ensure that operational delivery is consistent across all three licensing schemes as detailed in Appendix 4.

It is proposed that any new Additional Licence applications received in the period up to 31<sup>st</sup> December 2018 will be processed and "passported" into the newly proposed scheme of Additional Licensing if approved. This means they will be granted to expire within the timeframe of the new Designation and subject to the revised standard conditions. It is also proposed that where appropriate "overhanging licences" (i.e. those granted under the current scheme for a duration which expires after 31 December 2018) will be "passported" into the new

proposed scheme of Additional Licensing in accordance with the detailed requirements in Appendix 4.

2.6.6 Removal of s.257 HMOs from Additional Licensing: As indicated above it is proposed that section 257 HMOs will be exempt from the proposed Designation. However, the introduction of Selective Licensing alongside Additional and Mandatory schemes means that the individual flats comprised in such properties may be required to hold a licence in their own right, should they be privately rented and be occupied in a way that meets the criteria for one of the licensing schemes. The number of s.257 HMO applications is not high and should any be received during the last 3 months of the current Additional Licensing scheme it is proposed that they be redirected for consideration under the relevant alternative scheme if appropriate.

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

3.1 Not to adopt a scheme of Additional Licensing: rejected as because Additional Licensing has provided means of proactive engagement and delivered outcomes that would not otherwise have been achieved., Further, to have no scheme would prevent further progress in improving standards being made, with a serious risk that standards would regress from those at present under the existing scheme.

3.2 Seek to achieve the required improvements via accreditation schemes: rejected because accreditation can only ever be voluntary and will not capture those landlords who continue to mismanage their properties and do not engage. Accreditation and licensing are considered to be complementary tools and not mutually exclusive.

### **4 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)**

Advice provided by Michelle Pullen, Finance Manager, Community Protection/Commercial and Operations, Byron House, Maid Marion Way, Nottingham, NG1 6HS (9 August 2018)

4.1 The estimated value of this scheme over the five-year period is **£3,309,210.**

4.2 I. Based on research and evidence gathering, it is estimated that there are circa. 2500 private rented properties that potentially fall within the Additional Licensing Designation. Through the review of information held it is considered there are potentially 6271 HMOs that will require a licence if the Additional Licensing scheme is agreed. In our experience 75% of applications are received with little or no intervention required and the remaining 25% requiring, locating and investigating.

II. Renewal applications have been predicted (based on the issue of licences under the current schemes) for the two schemes at 1500 Additional & 2500 Mandatory.

III. A 20% variable forecast has been added as an adjustment to the total number of renewal applications forecast, bringing the final number to **4800 (1800 Additional & 3000 Mandatory)** rounded up to the nearest one hundred. Twenty percent is added to reflect the predicted churn against estimates, but this could be subject to significant variation for example

from the volatility of the housing market and other changes currently unknowns such as legislation.

4.3 This is a self-funded scheme. There will be no gain or loss in association with this scheme, it must remain cost neutral, and therefore there will be no negative impact to the MTFP.

4.4 The licence fees have been calculated by using an updated Local Government Association (LGA) toolkit to ensure value for money, but also to ensure that all allowable costs are recovered.

4.5 The assumed costs included are:

- Staffing costs to run the scheme, these have been included at productive hours only as per the guidance and relevant staff grades for each piece of work.
- Processing costs of each licence, application, checking etc. – this has been calculated using percentages for the amount of time taken.
- Enforcement costs (as per recent change to legislation).
- Management fees
- Exit costs.
- Overhead costs to include accommodation, IT, HR, Finance & Legal support.
- Inflation factors.
- There are no start-up costs as the scheme will continue after the old scheme has ended

4.6 **Table 1** below is a breakdown of costs. Included is an average of compliance 1 and compliance 2 works, plus the enforcement element which is part of the higher fee as these costs may be required for non-compliant properties. Also included are costs that are not recoverable by the fee. I have included these elements to ensure all potential costs are captured in this decision.

<b>Table 1: Estimated Operating Costs of scheme</b>	<b>£</b>
<b>Personnel Costs</b>	<b>2,452,400</b>
Enforcement Costs	207,714
Telephony	2,730
Premises	130,891
Transport	11,589
Supplies & Services	36,053
IT Support & New IT system	87,120
Other overheads inc EHO, Legal, Finance, HR , Business Analyst support functions	202,713
<b>Operating Costs</b>	<b>678,810</b>
<b>One off costs including exit fees</b>	<b>105,000</b>
<b>Non-recoverable costs - see Table 2*</b>	<b>73,000</b>
<b>Total Number of Licences</b>	<b>1,800</b>
<b>Total Costs</b>	<b>3,309,210</b>

\* These costs are not part of the fee

The costs are a guide and need to be flexible throughout the 5 year period based on demand and the risks highlighted in point 4.11 of this report

- 4.7 A key decision report has been written for the approval of a new fee structure for the current Additional scheme (ending in December 2018) and for the renewal of the additional scheme and the Mandatory scheme. The actual fee setting, using the LGA toolkit as described in 4.8 has been based on the combined team of officers covering activities generated by the Mandatory and Additional Licensing schemes as this proved to be the most effective use of resources, ensuring efficiency and reduced costs. By combining the 2 schemes together, the costs were divided by a total of 4,800 licences (3,000 for Mandatory and 1,800 for Additional)

The costs in Table 1 above have been calculated by separating out the scheme and treating it as though it would run on an individual basis. The table reflects what the scheme would cost if the workforce is divided into specific schemes and all costs, including fixed overheads are split by the lower number of 1,800 licences.

Calculations indicate the standard fee would need to increase to £1,568 – an increase of £238

Table 1 also includes costs that are non-recoverable by the fee, which are detailed in table 2.

- 4.8 The 2 schemes are entirely separate and are to remain as such. Despite being brought together to ensure efficiency as part of the fee setting, the recording and reporting of income and expenditure will be maintained separately to ensure the funds collected are being used appropriately.
- 4.9 In the event that the amount of licences received varies from the estimated 1,800 properties, the income will invariably change, costs would remain in line to reflect this. In the event that the licence numbers exceed the 1,800, additional resources would be factored in and budgeted for accordingly. Likewise, if income falls below, the operating model would be reduced to reflect this. The scheme will remain self-sufficient.

## **Risks**

- 4.10 I. There are risks to this scheme which could have an impact on the financial business model (covered below)

II. An example of some of the risks that could impact on the schemes financial viability and would require a resources review to mitigate are:

- Level of applications vary.
- Landlords may gain accreditation in order to secure a lower fee. Accredited landlords could receive a reduction of £340. Significant changes to accreditation numbers will affect costs and income.
- If operational activity identifies unexpected qualities of property (better or worse) which would mean staffing balance or costs are different to those that are anticipated.
- If there is any legislative, guidance changes and/or case law rulings
- Any other changes to service delivery which is impacted by issues for example, IT, accreditation providers, staffing, accommodation etc., it may be necessary to amend the business model

III. There is risk associated with predicting income levels as the income is dependent on the number of licensable premises; this number is subject to significant churn and is currently uncertain with the change to the Mandatory definition. In brief the new Mandatory licensing definition has removed the requirement for properties to have three storeys. It now includes properties that are occupied by five or more persons forming two or more households sharing amenities regardless of the number of storeys so will include some flats and larger properties that would have been covered by the Additional scheme

IV. The valuation and sensitivity of risks above currently cannot be quantified however; these will be developed as the scheme progresses. During this time the following needs to be in place to ensure the early warning of risks and the ability to undertake corrective action mitigating any financial impact to the organisation:

- Robust performance monitoring frameworks for both operational and financial targets
- Staffing flexibility set up to be able to align to activity levels.
- The business model includes full staffing exit costs (as referred to above).

4.11 The scheme will run for a **five year** period. Every year, a balanced net zero budget will be set based on projected activity. Monthly budget monitoring will ensure the budget stays on track. Periodically where necessary, the budget may be re-aligned in year to reflect changes in activity.

4.12 There is also the inevitability that applications will not be made uniformly over the duration of the scheme. As with previous similar licensing schemes, it is likely that a larger proportion of income will come in in the early years, meaning there will be no impact on borrowing from the authority. A cash flow statement is currently being developed which will be updated regularly to reflect the actual activity of the scheme. As this scheme needs to be self-financing with no gain or loss to be aligned to the Local Authority, the peaks and troughs in both income and expenditure has to be managed.

4.13 This will be done by applying the relevant accounting treatment – Receipts in Advance. This form of accounting treatment has been confirmed by CIPFA. This will ensure there is no impact on the MTFP and the scheme remains viable for the whole term.

4.14 The Additional Licencing scheme also includes non-recoverable costs, which over the five years are estimated to be at £73k. These are set out in **Table 2** below and are reflected in table 1.

<b>Table 2: Estimated Non-recoverable costs</b>	
<b>Costs</b>	<b>£'000</b>
Housing rating Inspection	39
Prosecutions of licence conditions through the courts	23
Tribunal costs including Legal	11

TOTAL	73
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The Non Recoverable costs of £73k (£14.6 annually) are covered through the budgets already held within other departments of the council, therefore within the MTFP, so there will be no impact.

**5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)**

Advice provided by Ann Barratt, Team Leader, Planning and Environment Team, Legal Services, Nottingham City Council, Loxley House, Station Street, Nottingham, NG2 3NG (21 August 2018)

- 5.1 In order for Board to approve a designation making an area subject to a scheme of Additional Licensing, Councillors must be satisfied that the statutory tests outlined in paragraph 2.2.1 – 2.2.7 above are met and with the evidential basis of the Corporate Director’s recommendations. Due regard should be had to the consultation analysis and responses and the officer’s comments made in relation to them in Appendix 1
- 5.2 The adoption of the current scheme of Additional Licensing was contentious and was (unsuccessfully) challenged by way of Judicial Review. The adoption of the proposed Designation is equally susceptible to challenge which could have significant financial and reputational consequences affecting the implementation of the scheme. There is a three month period in which a Judicial Review application can be made and if permission is granted such challenges often take in excess of a year to be concluded. Other operational elements of the scheme such as the imposition of conditions may be challenged on appeal in individual cases.

**6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE)**

- 6.1 Not applicable.

**7 SOCIAL VALUE CONSIDERATIONS**

- 7.1 The use of Additional Licensing is consistent with the Council’s overall strategic approach to housing and its approach to a number of key priorities for the City. Additional Licensing, by tackling the problems that are evidenced in the proposal, will help to achieve a number of positive outcomes in terms of regeneration, health and wellbeing, and community safety, which are all major priorities for the city. This will help to deliver improved outcomes for citizens.

**8 REGARD TO THE NHS CONSTITUTION**

- 8.1 The foundation for good public health is a safe home. It has been estimated that poor housing in England costs over £600 million annually and the total cost to society is over £1.5 billion a year (*The Real Cost of Poor Housing*: Davison et al, 2010). The impact of poor housing includes loss of earnings, underachievement at school, social exclusion, poor physical and mental health and costs to the NHS.

- 8.2 The Additional Licensing of HMOs means that around 2,500 HMOs will be potentially be brought into a framework of proactive control and an assessment process. This brings a real opportunity to better protect the health of tenants in this type of accommodation. Licensing requires fundamental safety protection linked to gas, electrics, fire, number of occupants, size and amenities. Whilst its enforcement is not covered by the licence fee, checks utilising the Housing Health and Safety Rating System (HHSRS) are carried out on all licensable HMOs. These assessments consider 29 hazards to health which include, for example: excess cold, falls, entry by intruders and damp and mould, and where hazards exist requires that action is taken to remedy them.
- 8.3 There is information that these actions contribute to improved health outcomes, other social benefits and reduced costs to the NHS; work carried out by the Building Research Establishment (BRE) and the Chartered Institute of Environmental Health evidences this.

## **9 EQUALITY IMPACT ASSESSMENT (EIA)**

9.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because:  
(Please explain why an EIA is not necessary)

Yes

Attached as Appendix 5, and due regard will be given to any implications identified in it.

## **10 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)**

10.1 None.

## **11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT**

- *Executive Board Report April 2018 :*  
<http://committee.nottinghamcity.gov.uk/documents/s71103/18.04.06%20Additional%20Licensing%20Consultation%20Final%20for%20Upload.pdf>
- *Approval steps for additional and selective licensing designations in England,* Department for Communities and Local Government, 2010:  
<http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/publications/housing/approvalsteps>
- The Housing Act, 2004: <http://www.legislation.gov.uk/ukpga/2004/34/contents>
- *The Real Cost of Poor Housing:* Davidson et al, 2010.

## **Appendix 1:** **Proposed Scheme of Additional Licensing of HMOs – Consultation Analysis**

### **Background**

Nottingham City Council conducted an 11.5 week consultation between 1 May 2018 and 20 July 2018 on proposals for a new scheme of Additional Licensing of Houses in Multiple Occupation (HMOs).

A consultation document was prepared, along with presentations for events that showed the designation (geographic extent of the proposals), the evidence for the designation, a review of the 2014 to 2018 scheme of Additional Licensing, the new licence fee structure and conditions.

To comply with the Housing Act (2004) and the guidance document *Approval Steps for Additional and Selective Licensing Designations in England*, the proposed designation is primarily based around Census output areas containing 10 or more Houses in Multiple Occupation (HMO) not covered by Mandatory Licensing, where 20% of more of those HMOs have received a relevant complaint in the past 3 years.

### **Executive Summary**

- The consultation and events drew responses from tenants, landlords, residents and organisations.
- A majority of those responding via the survey and written responses agreed that the proposals should be implemented.
- A majority of respondents agreed that Additional Licensing could help improve the management of HMOs and that improvements were needed.
- A majority of respondents agreed with the tiered fee structure, where there would be a standard fee, a lower fee for accredited landlords and a higher fee for landlords with a history of non-compliance.
- A majority of those who agreed with the proposals were tenants and residents; issues raised being the need for safe standards of accommodation, problems with ASB and property conditions, and the need for increased enforcement and landlord accountability.
- The majority of those who disagreed with the proposals were landlords; the main objections being that Additional Licensing is an income generation scheme for the Council, only bad or rogue landlords should be targeted and that there are sufficient existing powers/means to address standards.
- There were no specific queries or objections regarding the geographic extent of the proposed designation, though there were a small number of comments that contested the presence of issues in broad areas or how areas had been selected.
- The main queries to be addressed were about the fee, the passporting of licences between schemes, accreditation and the impact of licensing on rents and housing supply.

## **Methodology:**

The consultation used a wide variety of communication channels and methodologies, including:

- An information leaflet made available in NHS GP surgeries, leisure centres, libraries, Council buildings, community centres and cultural centres
- An article in the June 2018 edition of the Nottingham Arrow.
- Stakeholder emails to: managing agents, landlord organisations, businesses, and residents groups.
- Press release in local media, i.e. Nottingham Post
- Dedicated web page on Nottingham City Council external website and internal Intranet pages.
- Attendance at all affected Area Committee meetings during the period of the consultation
- Attendance at wider neighbourhood and Council consultation events.
- Attendance at local landlord meetings to discuss proposals.
- Resident Stakeholders (communities and voluntary sector) event – 18<sup>th</sup> July 2018
- Landlord and managing agent event – 24<sup>th</sup> June 2018
- Email sent to ‘communities of interest’ organisations/groups.
- Email to business organisations and representatives.
- Letter to Chief Executives of neighbouring authorities
- Digital marketing campaign including social media, email marketing, and web advertising

Details of engagement activity and consultation events undertaken are at Appendices 1Ai and 1Aii respectively.

## Appendix 1A – Analysis of Responses

### Survey

- A survey of 10 questions was available for completion online or in paper format at events.
- 7 questions concerned the scheme and 3 the respondent, there was also the opportunity to make comments.
- 477 surveys were completed, 379 online and 98 on paper.
- The largest respondent group was residents living in the designation (34%), followed by HMO tenants (23%).
- 92% of respondents were responding on their own behalf.
- 37% of responses were from the NG7 Postcode district. This was the largest response from any one postcode district.
- 29 responses were from those responding on behalf of an organisation.

Chart 1:

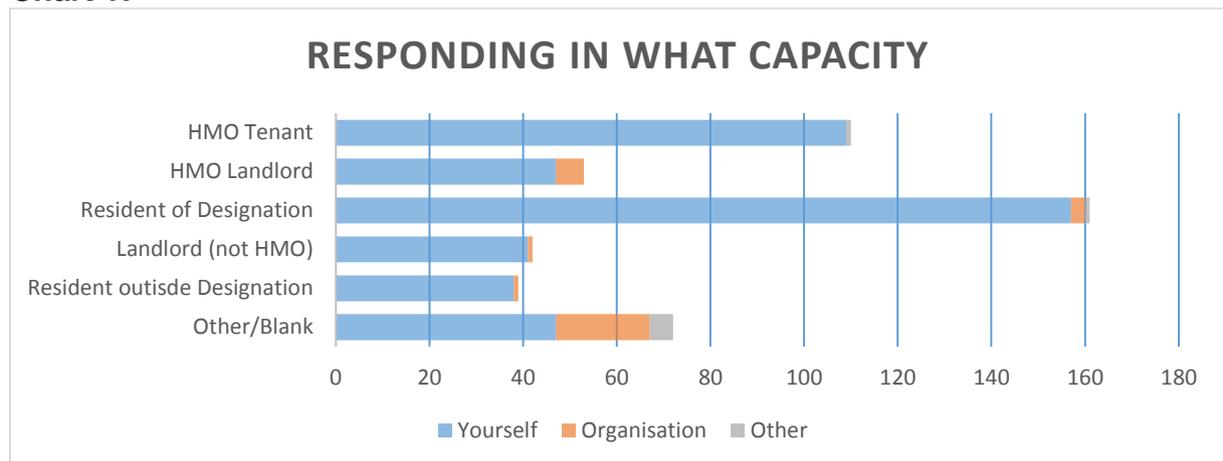
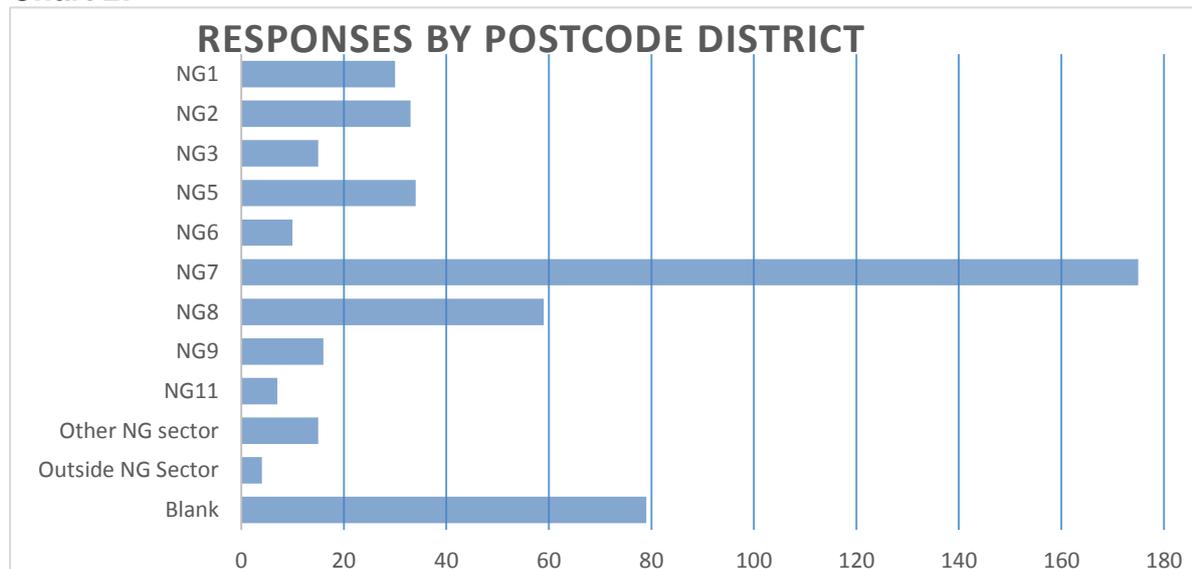
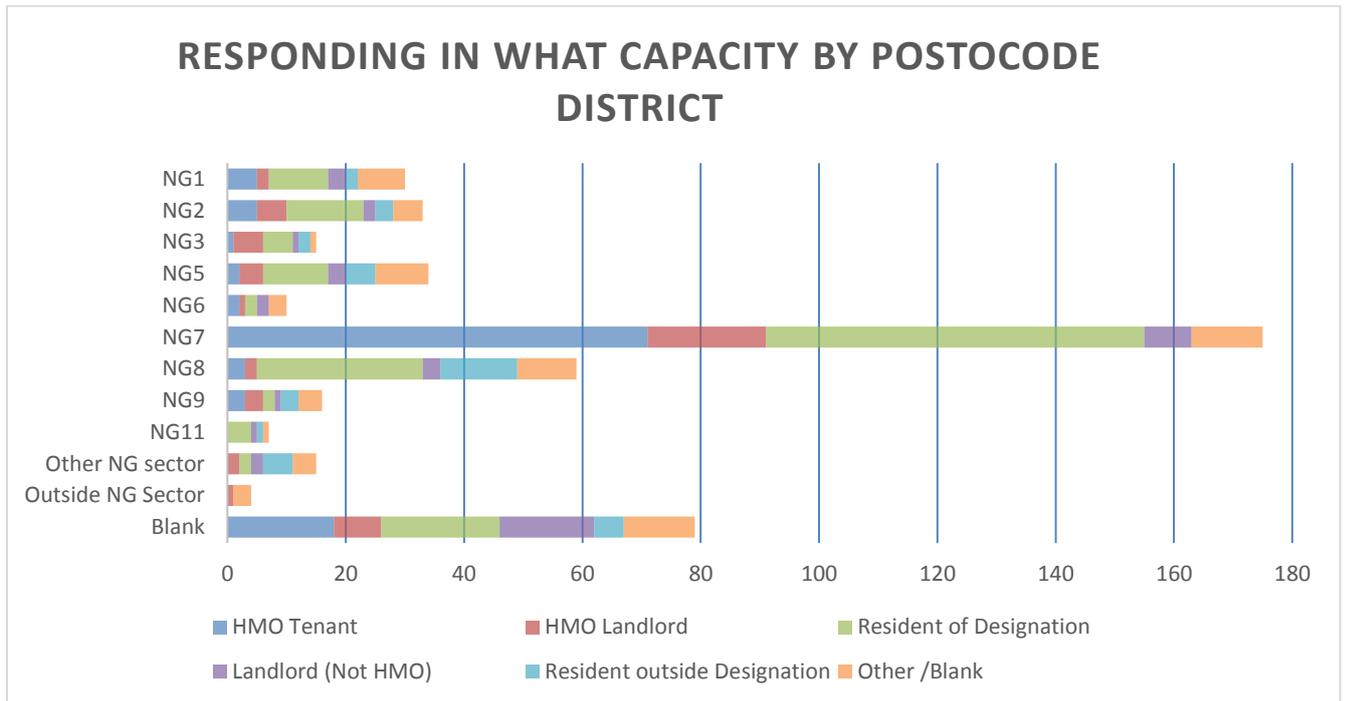


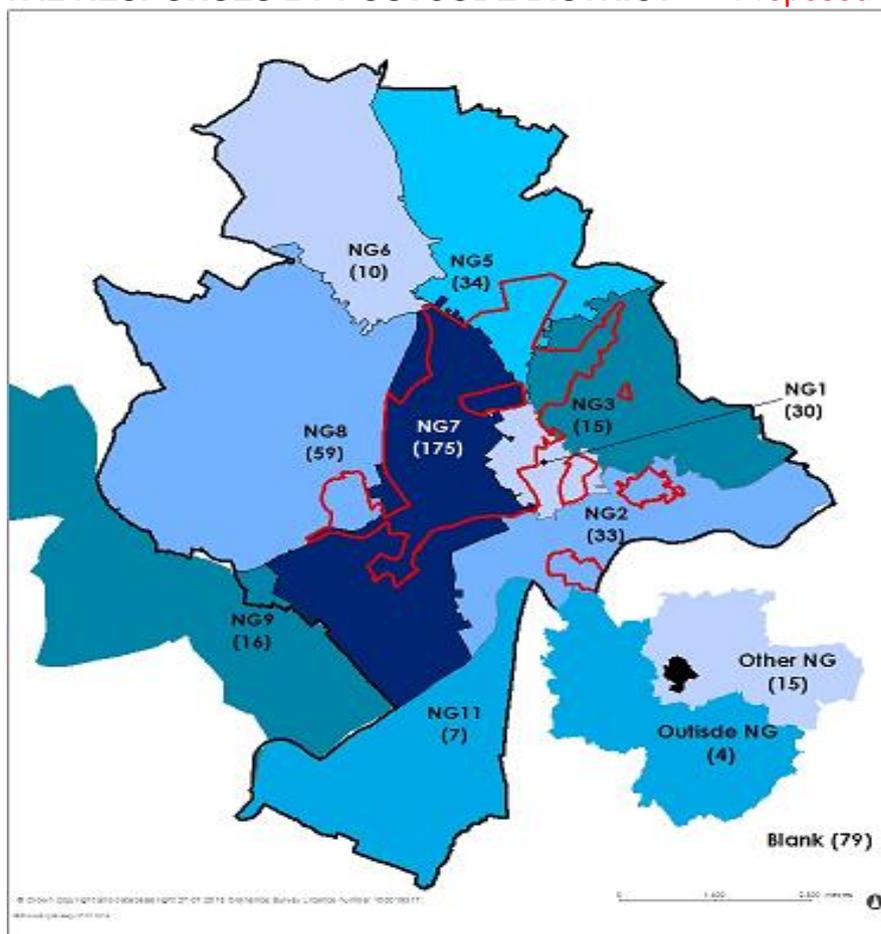
Chart 2:



**Chart 3:**



**Map 1: TOTAL RESPONSES BY POSTCODE DISTRICT — Proposed Designation**

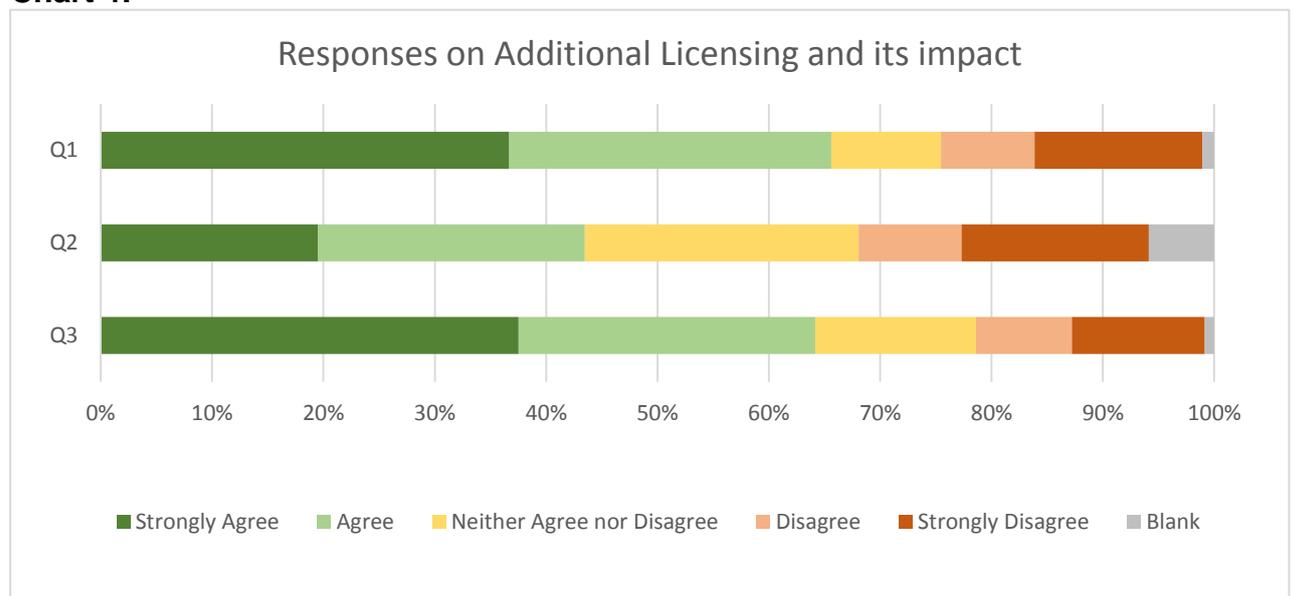


## Additional Licensing and its impact

Respondents were asked how strongly they agreed or disagreed with the following:

- (Q1) Additional Licensing could help improve the way HMOs are managed
- (Q2) Nottingham's Additional Licensing scheme has improved the way HMOs are managed
- (Q3) That improvements are needed to the way HMOs are managed and maintained in Nottingham
- Two thirds (66%) strongly agreed or agreed that Additional Licensing could help improve the way HMOs are managed.
- More respondents strongly agreed or agreed (44%) that Additional Licensing has improved the management of HMOs than disagreed or strongly disagreed.
- 65% of respondents strongly agreed or agreed that improvements are still needed to the way HMOs are managed and maintained in Nottingham.

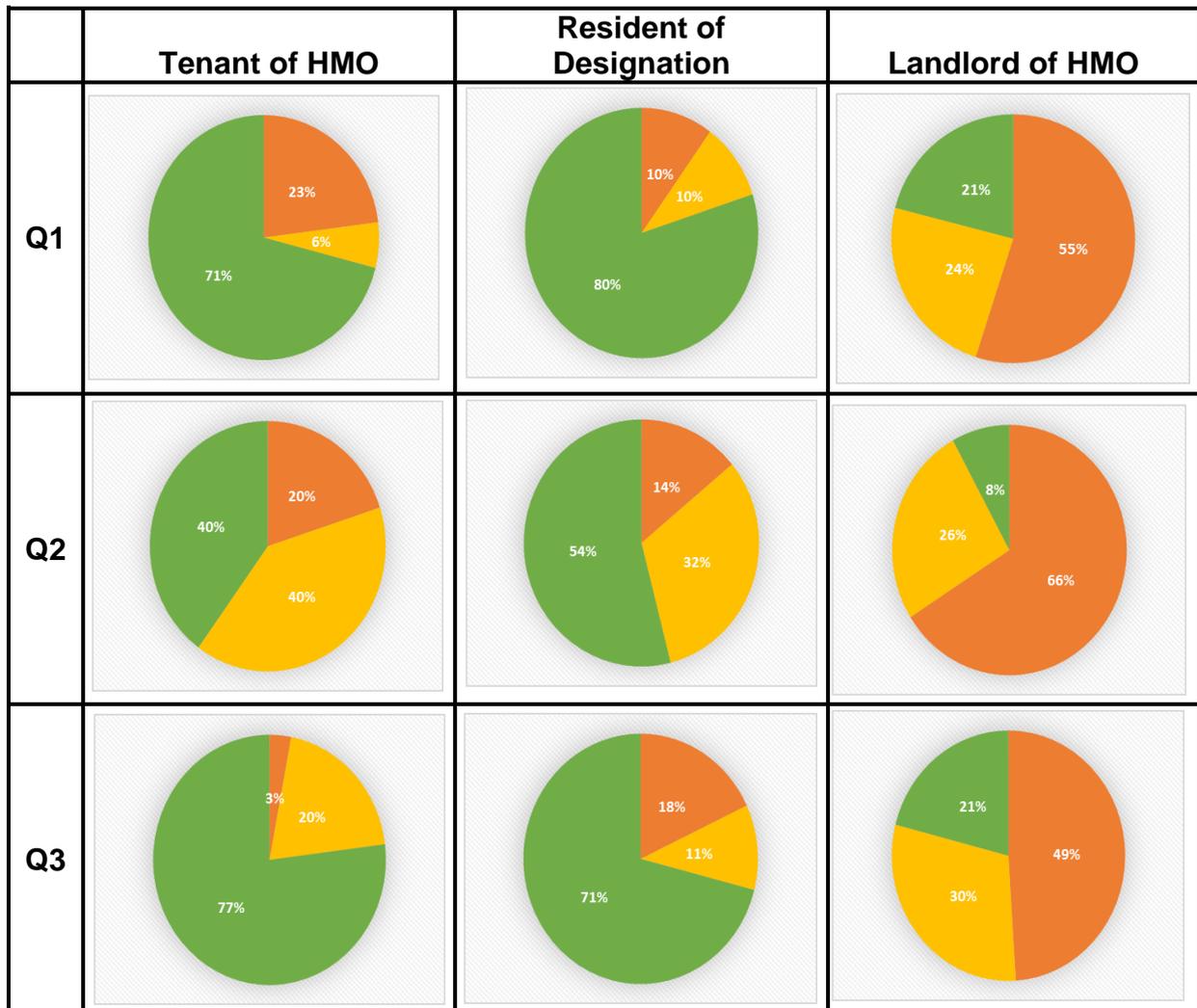
**Chart 4:**



- 71% of tenants of HMOs agreed that Additional Licensing could help improve the way HMOs are managed and that improvements are needed.
- The majority of residents in the designation agreed or strongly agreed with all three statements.
- Most HMO landlords strongly disagreed or disagreed with all 3 statements.

**Figure 1: Percentage of Respondent Groups Agreeing or Disagreeing – Additional Licensing Impact**

	Agree
	Disagree
	Neutral/Blank



There were 140 comments in this section - 51 were from residents of the designation, 28 from HMO tenants, 26 from Others and 22 from HMO Landlords.

84 comments were from those who strongly agreed or agreed with both questions 1 and 3 and 26 were from those who strongly disagreed or disagreed with both questions 1 and 3.

Of the comments from those who strongly agreed or agreed with both questions:

- 24 comments related to safety, ensuring standards and controls over landlord compliance or accountability

- 13 related to ASB and disturbance
- 8 related to waste management and property/garden condition

Of the comments from those who strongly disagreed or disagreed with both questions:

- 4 related to the scheme being for income generation
- 5 related to the impact on good landlords/targeting rogue landlords and there being sufficient powers already
- 4 related to an increase in rents
- 2 related to there being no or insufficient evidence of issues in NG7 or student areas

56 comments were from those who strongly agreed or agreed with Question 2 and 47 were from those who strongly disagreed or disagreed with Question 2.

Of the comments from those who strongly agreed or agreed:

- 6 related to licensing having a positive effect on or improving an area
- 14 related to stricter controls and enforcement of landlord accountability
- 10 related to ASB, property/garden conditions and waste.

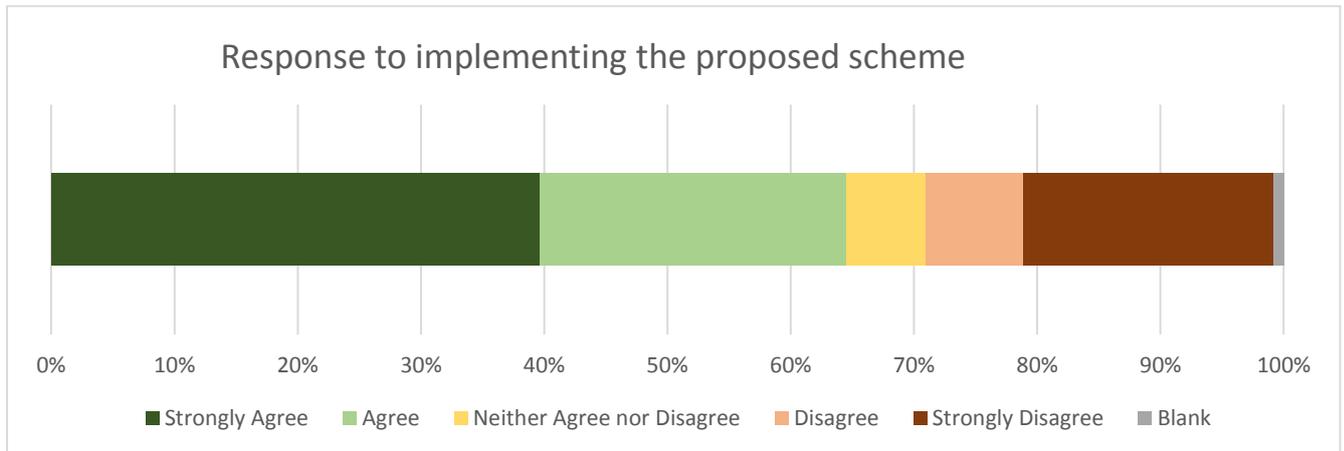
Of the comment from those who strongly disagreed or disagreed:

- 13 related to the scheme being for income generation or increasing rents
- 7 related to targeting poor/rogue landlords and there being sufficient legislation already
- 5 related to property/garden conditions
- 3 related to insufficient evidence of issues.

## **Proposed Scheme**

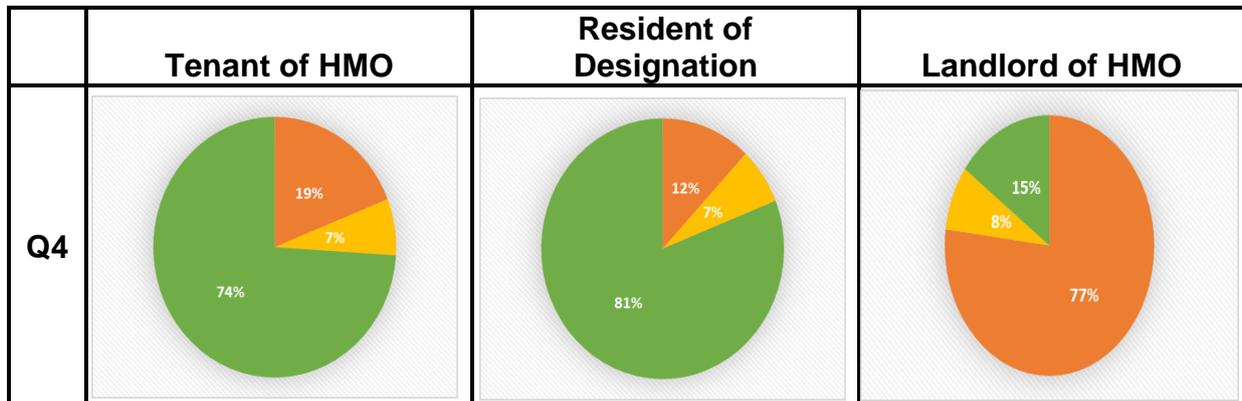
- Respondents were asked how strongly they agreed or disagreed that Nottingham City Council should implement the proposed scheme of Additional Licensing.
- 65% of respondents strongly agreed or agreed that the scheme should be implemented.
- 81% of residents of the designation and 74% of HMO tenants strongly agreed or agreed that the scheme should be implemented but only 15% HMO landlords.

**Chart 6:**



**Figure 2: Percentage of Respondent Groups Agreeing or Disagreeing – Scheme Implementation**

	Agree
	Disagree
	Neutral/Blank



There were 104 comments added in this section including 27 from residents of the designation, 15 from HMO tenants, 21 from HMO Landlords and 23 from Others.

55 of those who commented strongly agreed or agreed that the scheme should be implemented and 53 strongly disagreed or disagreed.

**Those who strongly agreed or agreed with the proposals being implemented commented:**

- That Additional Licensing had done a good job in raising standards and had given landlords the impetus to improve
- All rented properties should be checked to ensure occupant safety
- That the scheme should come in but only if it was enforced
- That landlords should agree to certain terms
- That the application process should be easy and streamlined

**Those who strongly disagreed or disagreed with the proposals being implemented commented:**

- Bad landlords would not apply and the good ones would be paying for them
- That good landlords should not be charged
- That there was no evidence that licensing had made improvements
- That it is a job and income generation scheme
- That rents will increase and housing supply decrease

**Those that were neutral commented:**

- They agreed with the scheme but it was too expensive
- That their property had decreased in value whereas properties with a licence had increased (resident of designation)
- That Licensing would help with property conditions but not address tenant behaviour

Among those that responded to the survey on behalf of an organisation (and recorded the organisation), Nottinghamshire Police, Gangmasters and Labour Abuse Authority Nottingham Trent University, Nottingham Trent Students Union, University of Nottingham, representatives of Dunkirk and Lenton and Wollaton East and Lenton Abbey wards strongly agreed or agreed with that the proposed scheme should be implemented.

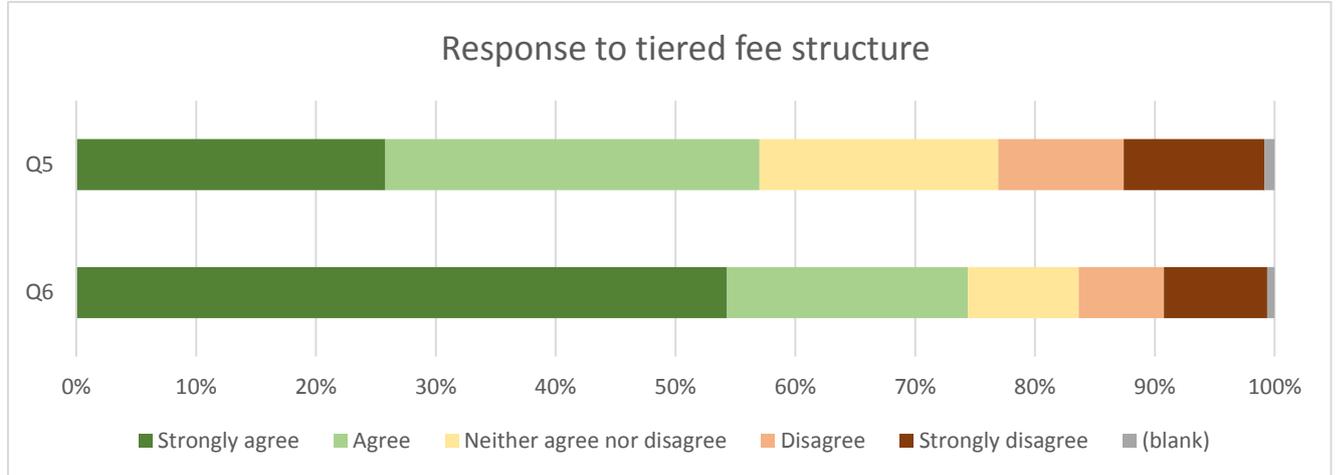
**Accreditation and the Fee**

Respondents were asked how strongly they agreed or disagreed with the following:

- (Q5) That accredited landlords should pay a lower fee
- (Q6) That those landlords with a history of non-compliance should pay a higher fee
- (Q7) That properties over 9 bedrooms should have an extra charge per every 5 bedrooms
- 57% of respondents strongly agreed or agreed that accredited landlords should pay a lower fee
- 74% strongly agreed or agreed that landlords with a history of non-compliance should pay a higher fee.
- Strongly agree or agree was the most frequent response among HMO Landlords, HMO Tenants and Residents of the Designation to both tiered fee questions

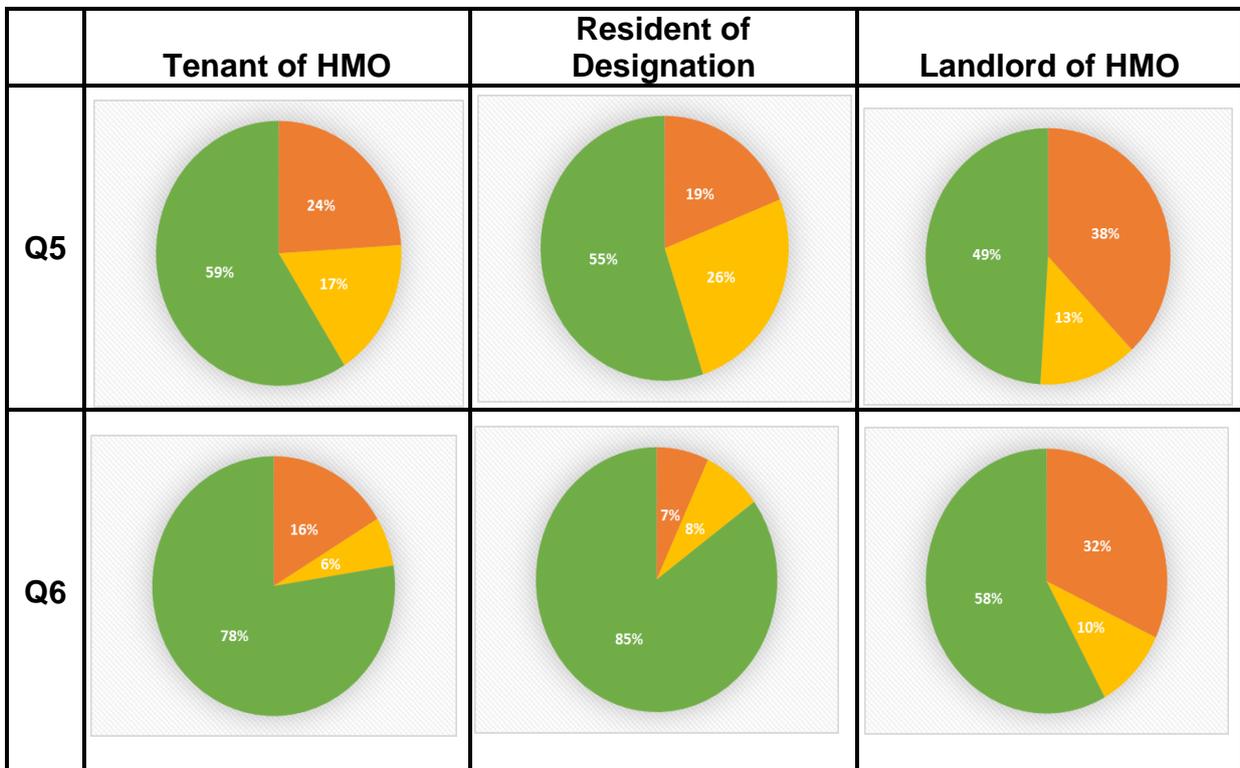
- Three times the percentage of designation residents and HMO tenants (96%) agreed that accredited landlords should pay a lower fee as HMO landlords (32%) disagreed that non-compliant landlords should pay a higher fee.

**Chart 7**



**Figure 3: Percentage of Respondent Groups Agreeing or Disagreeing – Accreditation and Fee**

	Agree
	Disagree
	Neutral/Blank



There were 102 comments in this section though positive or negative comments were not necessarily matched with agreement or disagreement with the questions. Of those that left comments, 46 respondents strongly agreed or agreed with both questions, whereas only eight strongly disagreed or disagreed with both.

Comments received included those from 29 residents of the designation, 16 HMO tenants, 23 Others and 17 HMO landlords.

The comments included:

- It is good to incentivise accreditation and compliance with a lower fee
- That it is reasonable for the fee to include the cost of checking and enforcing compliance as well as application processing.
- Consistently non-compliant landlords should receive heavy fines or prosecution and not be granted a licence at all.
- That charities cannot be accredited and the scheme excludes purpose- built student accommodation.
- Landlords will leave the market and/or rents will increase and be passed to the tenant
- That landlords see business opportunities but don't care about neighbourhood cohesion
- The fee being too high or not proportionate
- The proposals being an income generating scheme
- Accredited properties can still be in poor condition.

#### **Properties with over 9 bedrooms:**

Respondents were asked if properties with 9 bedroom or more should have an extra charge (£100 per 5 bedrooms).

59% of respondents agreed with this proposal, with the additional work required to inspect being acknowledged in the comments.

As the storey element that determined whether a HMO comes under Mandatory or Additional Licensing will be removed before any new scheme is implemented, no properties of this size will be covered by the proposed scheme and this question is no longer relevant to this consultation. It remains relevant for the accompanying report regarding fees however, as the structure will apply to both Additional Licensing and Mandatory Licensing schemes.

#### **4. Written Submissions to the Consultation:**

The consultation received 10 written responses. These were from:

- Alex Norris MP (Nottingham North)
- Lilian Greenwood MP (Nottingham South)
- National Landlord Association
- Nottingham Action Group on HMOs
- Nottingham City Homes

- Nottingham and Notts Refugee Forum
- Residential Landlords Association
- Unipol
- University of Nottingham
- University of Nottingham Student Union

8 responses supported the implementation of the proposed scheme and cited the need for improved standards, the progress licensing had made and the risk that removing the scheme would see standards regress.

Both landlord associations opposed the implementation of the scheme, citing the ineffectiveness of the scheme to date/there being no need for a new scheme if the existing one has been effective, the existence of sufficient powers and regulation without licensing, and increase in rents/passing costs on to tenants.

One response asked about the potential of accreditation to be fully extended to agents and one raised concern that the scheme may add to pressures on accommodation supply for vulnerable groups.

## **Events**

### **Landlord Event**

**Held on 25<sup>th</sup> June 2018, approximately 50 people attended the event.**

Key point of feedback were:

- Potential rent rises
- Evidence of ASB and impact the scheme will have on reducing it
- Period licences have been issued for the existing scheme and how these will be treated if a new scheme comes in – i.e. passporting
- Inspection regime – should the council be inspecting more properties and what does it look for
- Fee structure being proposed

### **Resident Stakeholder Event**

**Held on 18<sup>th</sup> July 2018. Approximately 15 people attended the event.**

Key points of feedback were:

- Potential rent rises
- Cost of the scheme and impact this will have on the market.
- Evidence for the scheme and the evidence of the impact the existing scheme has had on reducing/combating issues
- Widening of accreditation to include other organisations that are proactive in the area (e.g. National Approved Lettings Scheme)
- Impact that the scheme will have on vulnerable members of the community

## **Forest Fields Community Event**

**Held on 19<sup>th</sup> July 2018, approximately 50 people attended the event**

Key points of feedback on Additional Licensing were (n.b. the main topic was the new scheme of Selective Licensing):

- Which scheme will properties come under (i.e. removal of s.257 HMOs from Additional Licensing)
- What landlords would get from the scheme or receive for their fee
- More engagement needed with landlords in community
- Applying for accreditation

**Appendix 1 Ai)**

**Consultation and Engagement Activity Summary –1<sup>st</sup> May 2018 to 20<sup>th</sup> July 2018**

<b>What</b>	<b>Who ( Potential or Target Audience)</b>	<b>When</b>	<b>How</b>
A5 full colour flyers distributed to NHS GP surgeries, leisure centres, libraries, council buildings, community centres, voluntary service centres, and cultural centres.	Local residents, tenants, landlords, where appropriate managing agents, and other members of the community who operate businesses or provide services.	June 2018	Leaflet packs sent to all main City Council customer access points within the proposed designation and a buffer zone around this for distribution to citizens on a help yourself basis.
Article in the Nottingham Arrow.	All households in the City.	June 2018 Edition	Arrow sent by post to every household in the City (unless household has chosen to opt out). Included article about the consultation and how to get involved.
Neighbourhood Events and City Council Consultation Events Page 62	Local residents, tenants, landlords, where appropriate managing agents, and other members of the community who operate businesses or provide services.	Various dates between 1 <sup>st</sup> May to 20 <sup>th</sup> July 2018	Full colour banners used to promote presence and A4 full colour leaflets distributed.
Area Committee Meetings.	Local residents, tenants, landlords, where appropriate managing agents, and other members of the community who operate businesses or provide services.	Various dates between 21 <sup>st</sup> May and 27 <sup>th</sup> June 2018	Overview/presentation regarding the proposal given and questions taken.
Local Landlord Groups - East Midlands Property Owners (EMPO) – Special Meetings	Representatives from and members of EMPO	30 <sup>th</sup> May, 7 <sup>th</sup> June 12 <sup>th</sup> July	Attendance at EMPO meetings to discuss the proposals with landlords, A4 full colour leaflets distributed to promote consultation
Local Landlord Groups – National Association of Landlords – NLA	Representatives from and members of NLA	16 <sup>th</sup> May 2018	Attendance at meeting
Landlord and Managing Agents Consultation Events	Landlords and Managing Agents	25 <sup>th</sup> June 2018	Special events arranged to discuss the proposal with landlords and managing

			agents in the city. Presentation given followed by Q&A session. Leaflets distributed at the meeting
Resident Stakeholder Event with Nottingham Community & Voluntary Action Services	Voluntary Organisations, Community Groups and other members of the community, local residents, tenants, and landlords	18 <sup>th</sup> July 2018	Special event arranged to discuss the proposal with Voluntary Organisations and Community Groups within the city. Presentation given followed by Q&A session. Leaflets distributed at the meeting
Homelessness Strategy Implementation Group (SIG) Meeting	NCC Partners Community of interest groups, Voluntary Organisations and Community Groups	26 <sup>th</sup> June 2018	Overview regarding the proposal given.
Email to 'communities of interest', groups and Voluntary and Community Groups	Voluntary sector, community groups and community of interest groups.		Email sent out all the email addresses to protected characteristics network list. Email went to NCVS with a specific request for the information to be included their e-bulletin.
Email to Growth Hub, Nottingham Means Business and The Chamber of Commerce.	Nottingham City businesses and other members of the community who operate businesses or provide services within the designated area		Email sent out all the email addresses.
Letters to Chief Executives of neighbouring authorities	Residents and organisations of neighbouring authorities		Letter with overview of the proposal and information on how to have your say
Press releases	Local media and local residents, tenants, landlords, where appropriate managing agents, and other members of the community who operate businesses or provide services.	Various dates May to July 2018	City Council press releases led to media coverage including the Nottingham Post,
Coverage on the Nottingham City Council Intranet.	Nottingham City Council employees.	May to July 2018	Link to consultation page on internet publicised on Intranet page.
Coverage on the Nottingham City Council website	Local residents, tenants, landlords, where appropriate managing agents, and other members of the community who operate businesses	May to July 2018	Link to consultation page on internet. Link to Executive Board report, on line survey and consultation document.

	or provide services.		
Digital campaign including Social Media, email marketing and web advertising	Local residents, tenants, landlords, where appropriate managing agents, and other members of the community who operate businesses or provide services.	May to July 2018	General information, and information about how you can have your say sent out via all Social Media channels including My Nottingham twitter and Facebook & Nottingham Nouse; Stay Connected email bulletin service and targeted Facebook advertising.
Leaflets distributed to households in areas within the proposed designation	Local residents, tenants, landlords, and other members of the community who operate businesses or provide services	May to July 2018	A4 full colour flyers distributed by Community Protection Officers within their areas
Email and electronic copy of the leaflet distributed to contacts in the student community within the proposed designation	Local residents, tenants	May to July 2018	Email with electronic copy of leaflet and link to on line survey
Student Issues Meeting	NCC Partners, representatives from the student community	1 <sup>st</sup> June 2018	Overview regarding the proposal given.
Health and Housing Group	NCC Partners	30 <sup>th</sup> May 2018	Overview regarding the proposal given
Forest Fields Community Event	Special event arranged to discuss the proposal with Landlords and Tenants/Residents targeting Communities of Interest Groups within the city.	19 <sup>th</sup> July 2018	Overview regarding the proposal given and questions taken.

<b>What</b>	<b>Who/How ( Potential or Target Audience)</b>	<b>When</b>	<b>Number of attendees</b>
Local Landlord Groups - East Midlands Property Owners (EMPO) – Special Meetings	Attendance at EMPO meetings discuss the proposals with landlords, A4 full colour leaflets distributed to promote consultation	30 <sup>th</sup> May, 7 <sup>th</sup> June 12 <sup>th</sup> July	Landlords/Representatives from Landlord Organisations and Managing/Letting Agents
Landlord and Managing Agents Consultation Events	Special event arranged to discuss the proposal with landlords and managing agents in the city. Presentation given followed by Q&A session. Leaflets distributed at the meeting	25 <sup>th</sup> June 2018	Approx 50 Landlords/Representatives from Landlord Organisations and Managing/Letting Agents
Resident Stakeholder Meeting	Special event arranged to discuss the proposal stakeholders including residents groups, voluntary organisations and Community/Communities of Interest Groups within the city. Presentation given followed by Q&A session. Leaflets distributed at the meeting	18 <sup>th</sup> July 2018	Approx 15 Representatives of Community/Voluntary and residents/student organisations
Area Committee Meetings.	Local representatives (councillors) residents, Police, NCH, residents and community group members.	Various dates between 21 <sup>st</sup> May & 27 <sup>th</sup> June 2018	
Homelessness Strategy Implementation Group (SIG) Meeting	NCC Partners, Voluntary Organisations and Community Groups		
Local Landlord Groups – National Association of Landlords – NLA	Representatives from and members of NLA	16th May 2018	
Student Issues Meeting	NCC Partners, representative from the student community	1st June 2018	
Health and Housing Group	NCC Partners	30th May 2018	
Forest Fields Community Event	Special event arranged to discuss the proposal with landlords and tenants/residents targeting Communities of Interest groups within the City.	19 <sup>th</sup> July 2018	Approx 50 landlords/representatives from landlord organisations and representatives of community organisations/residents of the local community

## Appendix 1B: Responses to objections to consultation proposal

The Council is required to respond to queries and concerns raised during the course of consultation, offering explanation and or mitigation for them.

Objection	Response
<b>Reasons for Proposing the Scheme</b>	
<p>How after five years of inspecting properties are there any problems?</p>	<p>Not all landlords applied to the scheme straight away so not all properties will have been licensed or inspected from the very start of the scheme. Applications are still being received well into year 5 of the current scheme.</p> <p>Not all properties are inspected under the current or proposed scheme, as this would have a severe impact on resources and the cost of the scheme/fee. Instead, properties are risk rated based on the content of the application, landlord accreditation and the compliance history of the landlord. with a percentage rate of inspection against each risk rated group. From 2019 onwards this will be further reflected in the 3 tiered fee structure which corresponds to the 3 tier risk/inspection regime.</p> <p>Inspections focus on the physical condition of the property and though there are conditions relating to the management of tenants, addressing problems such as ASB is reactive (i.e. after a complaint has been made) and can require the intervention of the council or other agencies to prevent recurrence.</p> <p>The Council also believes that 5 years is not long enough for the standards required by licensing to have become the “norm”. Landlords may still need to liaise with the Safer Housing Team to sustain full compliance with the conditions and that ongoing dialogue between the Council, its partners, landlords, tenants and the community is required to proactively reduce ASB as far as possible. The Government recognises that licensing may have to be a long term strategy and will not provide instant solutions ( Approval steps for additional and selective licensing designations in England, DCLG, 2010 p.15)</p>
<b>The Scheme will not have any impact on ASB</b>	
<p>What impact does the new scheme have on ASB?</p>	<p>The proposed scheme places specific conditions on landlords to prevent and tackle ASB which can be seen at Appendix 3(Section D, Point 31)</p>

Further, the Council proposes to expand its 18-month pilot of a multi-agency (Licensing Compliance, Community Protection, Police and others) approach to tackling ASB in the Lenton area (which has the most dense concentration of HMOs) further across the designation.

Using multi-agency intervention has allowed better engagement and communication with tenants and landlords at such properties to help tackle, reduce and prevent further incidence.

Residents from this area confirmed in their consultation responses that Additional Licensing had made an improvement to the area.

A reduction in the amount of ASB in some Output Areas has been observed and statistics indicate improvement in this area, however ASB activity may have been displaced to surrounding areas with less rigorous supervision., The Council continues to monitor this.

As there is a current scheme of licensing, the relationships and resources are in place to continue the aforementioned activity from the start of the scheme unlike with the previous scheme, where more intensive activity was deferred for over 12 months pending the outcome of the Judicial Review.

**Additional Licensing is a tax on landlords**

This is an income generation scheme for the council  
 This is about the council making money  
 This is a landlord tax

The fee reflects the costs of administering the scheme. The Council has used an updated version of the Local Government Association toolkit available for precisely this type of process to set the fee. The Council is not allowed to make a profit from the licence fee and the fee has not been calculated on a profit-making basis. Licensing cannot be considered to be a form of taxation: the fee income can only be used to implement the scheme, and for no other purpose

**Additional Licensing will have a negative effect on good landlords**

Should only target bad landlords  
 Already have powers to deal with rogue landlords  
 Landlords will have to sell up, young landlords won't be able to afford the fee

The Council wants to work with good landlords in the overall interest of the sector and part of this means rewarding landlords who comply, engage and deliver high standards. Accordingly, provision for reduced fees for accredited landlords is proposed as part of the scheme

There is no evidence of the existing licensing schemes driving good landlords out of the market. Where the Council has taken enforcement action against the poor landlords, a consequence of the Council's action is that some landlords sell up and

	<p>leave the market. In the Council's opinion this is a positive outcome as it will have succeeded in driving rogue landlords out of the market.</p> <p>There is also a constant churn in the housing sector with landlords arriving and leaving the market for a whole range of reasons.</p> <p>The scheme is not of a "blanket" nature. It addresses the problems in the areas where robust evidence has been established showing the need for a scheme. The scheme is not intended to penalise good landlords. The legislation does not allow for the targeting of any particular landlords; however it is intended that resources are focused on non-compliant landlords, poorer housing, and areas affected by crime and ASB. The fact that less resources are needed to licence properties managed by accredited landlords is reflected in a lower fee.</p> <p>There will be a dedicated enforcement team to tackle those landlords that fail to comply with the requirements.</p>
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**Fees are too high**

<p>What are the fees for mandatory and selective licensing?  How have you arrived at the fees for Additional Licensing?  Has the poorly performing landlord fee always existed?</p>	<p>A table showing the fee structure is available on the website and it is proposed that the fee will increase on the 19th September 2018 subject to Executive Board consideration. All new applications received after this date will pay the new fee. All renewal applications will have the new fee applied from the 1<sup>st</sup> October 2018.</p> <p>The fee will be collected in two parts, the first part upon application and the second if the licence is to be granted. If the licence is to be refused, no second payment needs to be made. The fee is non-refundable and is not transferable.</p> <p>The fee charged covers the costs of the licensing process and reflects the costs of administering the scheme. The Council has used an updated version of the Local Government Association toolkit available for precisely this type of process to set the fee.</p> <p>The "less compliant" landlord fee is being introduced as part of the new fee structure. The Council has listened to feedback from landlords and in a response to this has proposed that a tiered fee structure replace the existing fee structure: accredited landlords pay a lower fee and less compliant landlords pay a higher fee, with a standard fee applying to non-accredited landlords who are compliant. In addition extra fees will be payable on a case by case basis to cover additional work where it arises from the applicants conduct in relation to an application ( e.g. finders fees, missed inspections etc) and for changes to from Mandatory/Additional Licensing and selective licensing.</p>
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<p>Could a pro rata fee be considered?</p>	<p>No, the fee is calculated using an approved model as described above. The model is designed to consider a range of licensing activities across the lifetime of the scheme on a cost recovery basis. Whilst it is not possible to calculate a specific time costed fee for each individual application additional fees will be levied where additional costs are incurred due to the applicant's conduct during the course of the application as identified above Fees will be monitored and kept under review during the lifetime of the Designation..</p>
<p>The fees are overcomplicated, include a finder's fee, and need to be looked at</p>	<p>The Council has looked at the fees and proposes to introduce a fee structure as described above. The fee has to take into account the amount of work undertaken and the finder's fee is calculated to cover the additional amount of work that needs to be done to secure applications from those who have been reticent in, or have sought to avoid submitting them. The Council also has to take into account how long it issues a licence for. The norm is to issue a licence for 5 years, but it may in some circumstances be more appropriate to issue a licence for 12 months where the applicant is required to demonstrate good management of the HMO. In these circumstances more compliance work ,( and if needed enforcement,) may be required, this is reflected in the fee structure..</p>
<p><b>Outcome of Additional Licensing will be increased rents</b></p>	
<p>Have you considered how much rents will increase as a result of increased costs? Agents are already seeing an increase in rents because of the increase in legislation. Licensing along with Article 4 will have a big impact on the housing stock</p>	<p>The Council has considered this, however the Council considers the costs to be small when bearing in mind that the fee for Additional Licensing is (generally) over five years and that the yield from an HMO is higher owing to there being multiple tenants. The Council believes that the costs should be absorbed as part of the cost of running a business and not passed on to tenants. Furthermore, in response to similar queries raised as part of the consultation on the current scheme (2014-18) it was found that though some rents had increased, they had also done so in areas that were not subject to licensing. With regard to the supply of rented accommodation, although some landlords exit the market, others will enter it. We are not aware of a decline in the amount of rented accommodation or accommodation overall having resulted from licensing.</p>
<p>Fees will lead to a raise in rents. The increased costs are high and will be passed on and will lead to an increase in rents and rents will be put up. If the scheme is about protecting and safeguarding and after 4 years you have only inspected 33% you need to focus on inspection and not renew the</p>	<p>The Council inspects approximately 80 properties a month and now have 4 additional officers to do enforcement work. Compliance started late on in the current scheme due to the Judicial Review and the risk associated with that. The Council took a pragmatic and conservative approach bearing in mind the risks to the Council and public purse. Compliance inspections will increase. As many of the licences issued under the current Additional Licensing scheme will run into or "over hang" the newly</p>

scheme	proposed scheme the Council expects to inspect a much higher percentage of properties within the duration of the new scheme
<b>The proposals will not tackle issue of rogue landlords</b>	
Landlords don't want to be found. Costs are increasing even though there are going to be on line applications. Landlords are better off not applying. The figures for civil penalties are low which shows the scheme is not performing	<p>Part of the review is to look at the fee and to set a fee structure that takes into account a landlords failure to licence and less compliant behaviours. Landlords will have to pay a finders fee of £150 and also the higher fee of £1720 if they have a history or are found to be less compliant which is a substantial increase over the standard fee of £1,330</p> <p>Civil penalties have only recently been introduced and the Council has already seen an increase in the numbers issued.</p>
The second biggest reason for evictions is tenants asking for repairs and rogue landlords will go under the radar. More information on accreditation and what this offers is required	<p>The Council takes active measures to investigate all reports of illegal eviction via our safer housing team, and works with a range of partners to do this. The Council promotes accreditation through the Nottingham Standard, further details can be found here:  <a href="http://www.nottinghamcity.gov.uk/housing/private-sector-housing/the-nottingham-standard-for-landlord-accreditation/">http://www.nottinghamcity.gov.uk/housing/private-sector-housing/the-nottingham-standard-for-landlord-accreditation/</a></p>
<b>Other</b>	
The period that licences are for needs to be addressed and the Council needs to look at how long licences will be issued for	<p>The Council has reviewed this issue. Changes to mandatory licensing from 1<sup>st</sup> October 2018 mean that some licences granted under the current Additional Licensing scheme will "passport", i.e. change to mandatory licences. The Council will make the necessary adjustments to the back office system to ensure the properties are correctly coded to the correct scheme. Landlords will not receive a physical new copy of the licence documents if the licence has been issued, as there is no material change to the documentation (both licences being issued under Part 2 of the Housing Act 2004).</p> <p>If a licence has been issued and is in force prior to the 1<sup>st</sup> October 2018 for either the mandatory or additional scheme it will remain in force until the licence expiry date stated on the licence document unless otherwise revoked.</p> <p>Any licences issued in the current scheme of additional licence that overhangs the end date of the current scheme 31<sup>st</sup> December 2018 will remain valid and in force unless otherwise revoked. If the proposed new scheme of additional licencing is approved the licences will be "passported" into that new scheme and no further action will be required from landlords.</p> <p>The maximum that a licence can be granted for is a period of 5 years. In most cases the Council looks to grant a licence for a 5 year period starting from the date that the</p>

application is deemed validly made. However, the Council has a discretion to grant a licence for a shorter term and may do so where there are concerns about the fitness of the property or the applicant.

The Council is currently developing an exit strategy for the proposed Additional Licensing Scheme which will be the subject of a future Council approval. This Exit Strategy will review the potential options available to the Council at the end of the current proposed Additional Licensing Scheme, the likelihood and impact of further legislative change and then address how the Council proposes to manage licence durations in the given circumstances, building in the flexibility required so that the Council can manage the Scheme transparently and fairly so that Landlords are aware of how licence duration will be managed.

The learning and experience gained from implementing the current proposals to deal with 'overhanging' licences as a result of the current Additional Scheme coming to an end, the need to passport licences due to a change in definition for Mandatory Licensing and the interaction between all three licensing regimes will all be evaluated and used to identify the various scenarios that may occur in the future to enable effective exit strategy to be in place.

It is not clear what is happening in terms of the passporting of recently issued licences, were the owner has taken over the property. The Council needs to look at these landlords and work with them and not penalise them so that they have to pay again to get a licence

Under the existing scheme, the majority of the licences were granted for a period of 5 years from the time of application. Due to a change in policy, a small number have been granted for a shorter period and the expiration date on these licences reflects the end of the current scheme date i.e. December 2018.

Following feedback from licence holders that this was felt to be unfair, the Council has reviewed how it will deal with these licences. As part of the proposals for the new Additional Scheme, the Council, will in exercise of its discretionary powers, review all the licences that have been issued to expire at the end of the current scheme and consider, on a case by case basis depending on compliance and other matters, whether the duration of the licence should be varied up to a up to a maximum of 5 years from the date the application was duly made.

the Council being negligent in issuing licences without inspecting the property first

The Council carries out a "table top assessment" of applications looking at the information provided on the application form and using a risk based approach to

	<p>prioritise visits. The Council assesses the risk to the tenant based on that information and balances that against the best use of its resources. A scheme with 100% inspections increase the cost of the Scheme and result in higher application fees. . . The Council has reviewed its processes to seek to ensure that applications are processed more quickly whilst ensuring a robust risk assessed approach is in place so as to both improve customer service for landlords and protect tenants.</p>
<p>If landlords are accredited with National Approved Lettings Scheme (NALS) would you still get a discount?</p>	<p>The National Approved Lettings Scheme is not members of the Nottingham Standard. The Council recognises the training NALS does and is in the process of reviewing/will review the standards it expects to be met before a body will qualify for accreditation under the scheme so as to receive a lower fee. Guidance will be issued on this issue but in order to qualify for accreditation bodies will need to be able to show that they have a documented scheme of inspection for any properties that they manage.</p>
<p>It takes the Council a long time to contact landlords, the 7 day procedure doesn't work for landlords. The Council doesn't encourage people to be landlords and this will have an impact on people taking lodgers in</p>	<p>Landlords chose to be landlords, if they chose to be a landlord in Nottingham they will be expected to meet certain standards. The licensing process helps the Council to identify hazards and inspect properties. 7 days is a prescribed legal timeframe set out in much of the Housing Legislation.</p>

## Appendix 2:

### Nottingham City Council

#### Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2018

Nottingham City Council in exercise of their powers under section 56 of the Housing Act 2004 (“the Act”) hereby designates for additional licensing of Houses in Multiple Occupation (“HMOs”) the area described in paragraph 4.

#### CITATION, COMMENCEMENT AND DURATION

1. This designation may be cited as the Nottingham City Council Designation for an Area for Additional Licensing of Houses in Multiple Occupation 2018.
2. This designation is made on [date] 2018 and shall come into force on 1 January 2019
3. This designation shall cease to have effect on 31 December 2023 or earlier if the Council revokes the scheme under section 60 of the Act.

#### AREA TO WHICH THE DESIGNATION APPLIES

4. This designation shall apply to the areas delineated and shaded red on the map at Annex A.

#### APPLICATION OF THE DESIGNATION

5. This designation applies to all HMOs within the area described in paragraph 4 unless -
  - (a) the building is of a description specified in Annex B (Buildings that are not HMOs for the purpose of the Act - other than Part 1)
  - (b) the HMO is subject to an Interim or Final Management Order under Part 4 of the Act
  - (c) the HMO is subject to a temporary exemption under section 62 of the Act;
  - (d) the HMO is required to be licensed under section 55 (2) (a) of the Act (mandatory licensing) , or
  - (e) the HMO is of a type which complies with an Approved Code of Practice under the The Housing (Codes of Management Practice) (Student Accommodation) (England) Order 2010 (or any Order subsequently amending or replacing the same) and which are administered by ANUK
  - (f) HMOs as defined by Section 257 of the Act (certain converted blocks of flats)

EFFECT OF THE DESIGNATION

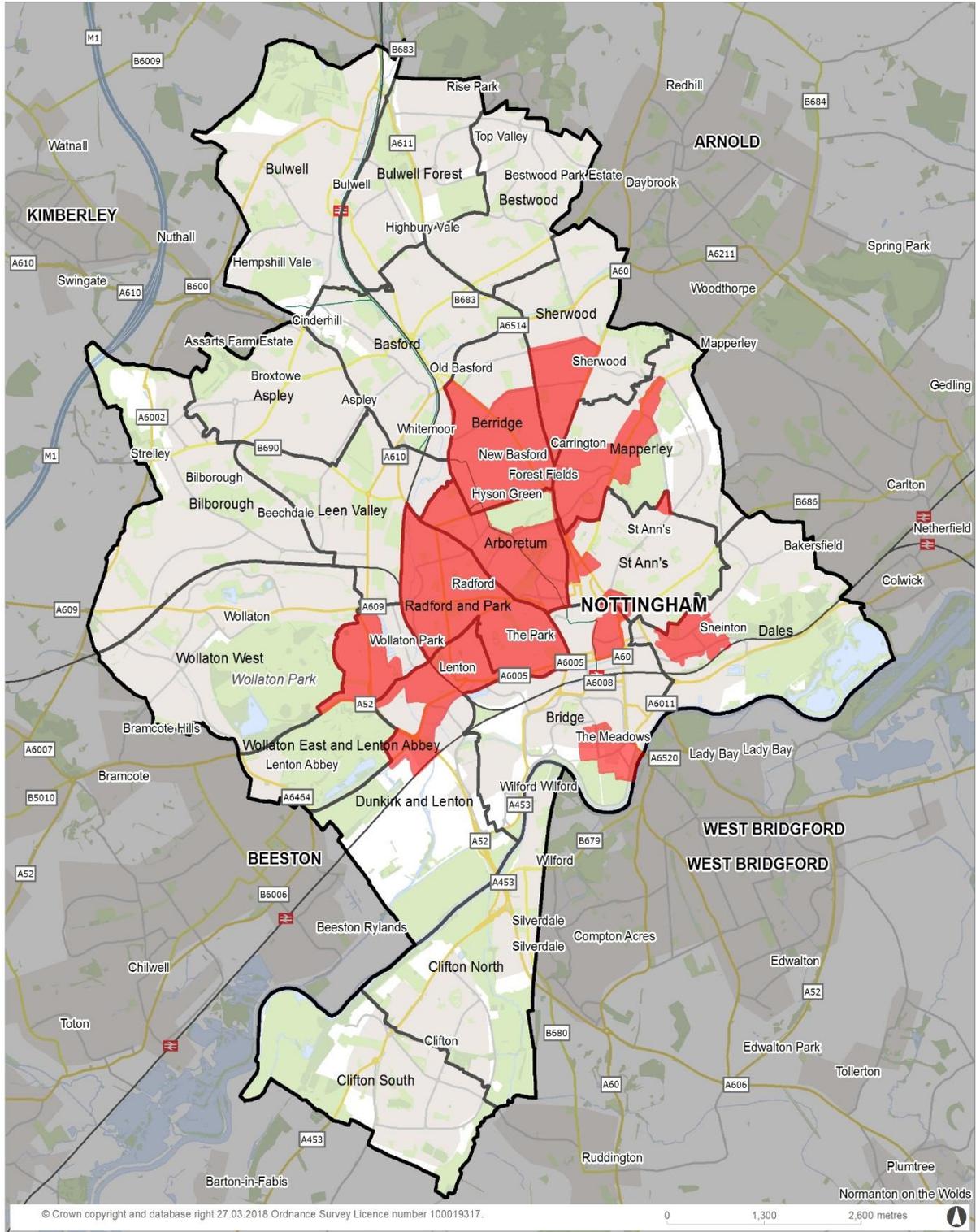
6. Subject to sub paragraphs 5(a) to (e) every HMO of the description specified in that paragraph in the area specified in paragraph 4 shall be required to be licensed under section 61 of the Act.
7. Nottingham City Council will comply with the notification requirements contained in section 59 of the Act and shall maintain a register of all houses registered under this designation, as required under section 232 of the Act.

This Deed is given under the                    }  
Common Seal of NOTTINGHAM  
CITY COUNCIL:

Authorised Signatory

Date:

# Proposed Designation for Additional Licensing 2019-23



- 2019-23 Proposed Designation
- City Boundary
- Wards



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## Draft proposed licence conditions for houses in multiple occupation (HMO)

**\* Indicates a statutory condition as prescribed by the Housing Act 2004**

### A. Bedroom Sizes & Occupation

1. The licence holder shall notify the council of any bedroom in the HMO with a floor area of less than 4.64 square meters. The maximum occupancy limit per bedroom shall be as follows; in accordance with the Council's adopted Guidance Standards for Licensable Houses in Multiple Occupation:\*

#### Basement or Lower Ground Floor

Front Bedroom (room #): One household comprising # people

Rear Bedroom (room #) One household comprising # person (under 10)

[Add as required]

#### Ground Floor

Front Bedroom (room #): One household comprising # people

Rear Bedroom (room #) One household comprising # person (under 10)

[Add as required]

#### First Floor

Front Bedroom (room #): One household comprising # people

Rear Bedroom (room #) One household comprising # person (Under 10)

[Add as required]

#### Second Floor

Front Bedroom (room #): One household comprising # people

Rear Bedroom (room #) One household comprising # person (Under 10)

[Add as required]

**For the purposes of this licence, any occupier is regarded as one person, regardless of age.**

### B. Gas, Electrical and Fire Safety

#### **Gas Safety**

2. Where gas is supplied the licence holder shall ensure that the whole gas installations, including all gas appliance/flue gas are in a safe condition at all times and that an annual gas safety check is carried out by a Gas Safe registered engineer. Any defects noted on the certificate must be promptly rectified and certificated as satisfactory. The licence holder shall provide a copy of the gas safety certificate to all tenants/occupiers at the beginning of their tenancy and keep a written record that it has been provided.\*

## Draft proposed licence conditions for houses in multiple occupation (HMO)

**\* Indicates a statutory condition as prescribed by the Housing Act 2004**

3. The licence holder shall produce the gas safety certificate issued in respect of the house within the previous 12 months for inspection within seven (7) days of the Council's demand\*

Details of Gas Safe engineers can be found at [www.gassaferegister.co.uk](http://www.gassaferegister.co.uk)

### **Safety of Electrical Appliances and Furniture**

4. The licence holder shall ensure that any electrical appliances and furniture made available by them in the house are kept in a safe condition and proper working order at all times. The licence holder shall ensure that as soon as electrical appliance and/or furniture is identified as being unsafe, it is removed from the house as soon as is reasonably practicable and are properly disposed of by the licence holder.\*
5. The licence holder shall ensure that a record of visual inspections and tests is maintained. The licence holder shall within seven (7) days of any demand by the council provide most recent records of visual inspections and tests carried out within the previous 12 months and provide a declaration as to the safety of electrical appliances made available by them at the property.\*
6. All portable electrical appliances provided by the landlord must be maintained in a safe condition and proper working order. Portable Appliance Testing (PAT) must be carried out on each such appliance every twelve months and the record of such testing kept for at least five years. Any necessary maintenance or repair work must be undertaken by a competent electrical engineer. The licence holder shall within seven (7) days of any demand by the council provide all maintenance records and PAT testing records.

### **Safety of Electrical Installations**

7. The licence holder shall ensure that the electrical installation in the house is safe, maintained and in proper working order at all times. The licence holder shall ensure that a satisfactory Electrical Installation Condition Report (EICR) is produced at intervals of no more than five (5) years or more frequently if required in accordance with the previous EICR. Any necessary maintenance or repair works must be undertaken by a competent electrical engineer in accordance with Part P of the Building Regulations. The licence holder shall within seven (7) days of any demand by the council, provide the most recent fixed wire inspection and test report. This report must be issued by a competent electrical engineer

### **Fire Detection Systems, Smoke Alarms & Emergency Escape Lighting**

8. The licence holder shall ensure that at all times a suitable fire detection and alarms system, is installed in the property that it is maintained in proper

## Draft proposed licence conditions for houses in multiple occupation (HMO)

**\* Indicates a statutory condition as prescribed by the Housing Act 2004**

working order, tested, inspected and serviced in accordance with the current British Standards or any which subsequently replace these.\*

9. The licence holder shall within seven (7) days of any demand by the council provide the latest fire detection and alarms certificate), and if installed, the emergency lighting test certificates. The certificates must be completed and issued by a competent person and must demonstrate that the complete installation has been fully checked and serviced within the previous 12 months in accordance with the relevant British Standards. Any defects noted on the certificate must be rectified as soon as reasonably practicable.\*
10. The number and position of the detectors and alarms must comply with the recommendations of the current British Standards or any which subsequently replaces these. As a minimum there must be a smoke alarm installed on each storey of the house on which there is a room used wholly or partly as living accommodation. For the purposes of this paragraph, a bathroom or lavatory is to be treated as a room used as living accommodation. Smoke alarms shall be maintained and cleaned periodically in accordance with supplier's instructions.
11. The licence holder shall within seven (7) days of any demand by the council provide a declaration as to the condition and position of any smoke alarms/detectors in the property\*

### **Carbon Monoxide Alarms**

12. The licence holder shall ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance. Any such alarm must be kept in proper working order. For the purposes of this paragraph, bathrooms, lavatories, halls and landings are all treated as rooms used as living accommodation.\*
13. The licence holder shall within seven (7) days of any demand by the council provide a declaration as to the condition and position of any carbon monoxide alarms in the property.\*

### **Property Management**

14. The licence holder must ensure that all reasonable and practical steps are taken to respond to repair and maintenance issues at their property and that any works to deal with repairs are undertaken as soon as is reasonably practicable after they are notified, and within the timescales notified to occupiers under condition 24.

15. The licence holder shall make sure that adequate security arrangements are in place and take reasonable steps to achieve property security by complying with the requirements below:
- a) So far as reasonably practicable, any emergency works necessary to protect the security of the property are undertaken within 24 hours of notification e.g. damage to windows and entrance points to the property.
  - b) The security provisions for access to the property (locks, latches, thumb turns, deadbolts and entry systems etc.) are maintained and in good working order at all times.
  - c) Where window locks are fitted, window keys shall be provided to the occupant(s) of the property. Means of escape windows shall not require a key to lock.
  - d) Where a burglar alarm is fitted to the house, the occupant(s) is (are) made aware of the code, have clear instructions on how the alarm is operated and the circumstances under which the code for the alarm can be changed.
  - e) Where it is known that previous occupiers have not surrendered keys, as soon as is reasonably practicable arranging for a lock change to be undertaken, prior to new occupiers moving in.
  - f) Where alley gates are installed to the side or rear of the licensed property, the licence holder shall take responsibility for holding a key and making satisfactory arrangements for the occupiers' access and egress.
  - g) The main escape route (usually the front door) shall be fitted with a thumb turn mortice lock, or equivalent, to five-lever security level. The lock shall comply with fire safety requirements in that it shall be operable from the inside without the use of a key.

### **Property inspections**

16. The licence holder shall ensure that the tenant's right to quiet enjoyment of the property is respected. The licence holder shall ensure that the tenant receives at least 24 hours written notice of their intention to enter the property specifying the reason why entry is required. The only exception is when it would not be reasonably practicable to give such notice and access is required urgently, e.g. in the event of an emergency.
17. The licence holder shall ensure that inspections of the property are carried out at least every six (6) months to identify any problems relating to the condition and management of the property. The records of such inspections shall be kept for the duration of this licence. As a minimum requirement the records

must contain a log of who carried out the inspection, the date and the time of inspection and any issues found and action(s) taken. The licence holder shall within seven (7) days of any demand by the council provide these records.

### **Dealing with rubbish**

18. The Licence holder shall comply with the Council's scheme (as per guidance) which relates to the storage and disposal of household waste at the HMO pending collection. The licence holder shall ensure so far as is reasonably practicable that the occupiers make arrangements for the collection of waste in accordance with these provisions and, when the property is unoccupied, or the occupiers fails to do so the licence holder adhere to these provisions themselves.\*
19. The licence holder shall at the beginning of a tenancy, provide written information to the occupiers of the property indicating:
- a) which day refuse collections will take place;
  - b) what type of bins to use for household and recycling waste;
  - c) details of the Council's bulky waste collection service;
  - d) details of the Council's missed bin collection service;
  - e) the occupiers shall be responsibility to put bins out no earlier than 4pm on the day before collection and to return refuse containers within the boundary of the property by 8am the day after the collection;
  - f) that occupiers should make arrangements for any extra rubbish that cannot fit in the bins to be collected within seven (7) days and/or disposed of as soon as is reasonably practicable and ensure that such rubbish, where possible, is stored at the rear of the property and within the boundary of the property until collection/disposal;
20. The licence holder shall ensure that suitable and adequate provision for refuse storage and collection is provided at the house. This shall include a closable bin(s) are kept in good working order and of suitable capacity as specified by the Council.
21. The licence holder shall ensure that trade rubbish/waste is not disposed of in the domestic household bin`s. Any trade rubbish/waste shall be disposed of as soon as is reasonably practicable and/or within 7 days and ensure that such rubbish/waste, where practicable, is stored at the rear of the property and within the boundary of the property. The licence holder shall make adequate arrangements for the collection and disposal of commercial waste and must use a licenced waste carrier.

**C. Tenancy management**

22. At the beginning of a new tenancy, the licence holder must provide the occupier(s) with written information pack, including contact details, explaining how they can make a complaint about the property and the arrangements in place to deal with emergency and other repairs. The contact and telephone number details shall enable contact between 9am – 5pm Monday to Friday, and shall also include an out of hours contact number for use in emergencies. Any change in contact and/or telephone number details shall be provided to occupiers within 24 hours of the changes being made.
23. The licence holder shall record providing the occupier(s) with an information pack containing the following details:
- a) A copy of the licence to which these conditions apply.
  - b) Where appropriate, copies of the current gas certificate, electrical safety report and energy performance certificates.
  - c) Details of the procedures to be followed in the reporting of anti-social behaviour (ASB).
  - d) Details of the occupier(s) duties and responsibilities to enable the licence holder or manager in complying with the licence conditions
  - e) The information required by conditions 22, 24 and 30, shall also be included.
24. The licence holder shall notify the occupier(s) in writing how they intend to respond to the complaint including a timescales for the steps they intend to take. The licence holder shall respond to any complaint in writing as soon as is reasonably practicable. Copies of all correspondence relating to complaints shall be retained during the term of this licence.
25. The licence holder shall within seven (7) days of any demand by the council provide the latest information pack provided to the current tenants and/or copies of any written correspondence in regards to complaint.
26. The licence holder shall supply to the occupiers of the house a written statement of the terms on which they occupy it (e.g. a tenancy agreement or licence). This statement shall be provided to the tenant within seven (7) days of the occupancy beginning. The licence holder shall within seven (7) days of any demand by the council provide a copy of the written statement. The written statement shall be clear about tenants' responsibility for not causing anti-social behaviour (ASB) and that breach of the statement's requirements may lead to eviction.

## Draft proposed licence conditions for houses in multiple occupation (HMO)

**\* Indicates a statutory condition as prescribed by the Housing Act 2004**

27. The licence holder shall comply with all relevant legislation and will ensure that all legal processes are followed when requiring occupiers to cease occupation
28. The licence holder shall demand references for new occupiers before entering into any occupancy agreement with them or allowing them to occupy the premises. Where obtained, copies of these references shall be kept for the duration of this licence and made available to the Council within seven (7) days of the Council's demand.
29. The licence holder shall ensure there is suitable and sufficient landlord buildings insurance in place for the duration of this licence.
30. Where a deposit is taken the licence holder must provide the Occupier(s) with relevant information about the deposit scheme to which it relates and any other information required under section 213 of the Housing Act 2004. The licence holder shall within seven (7) days of any demand by the council provide this information.

### **D. Tackling Anti-Social Behaviour**

31. The licence holder shall ensure that all reasonable and practical steps are taken to prevent or reduce anti-social behavior (ASB) or criminality by the occupants of and visitors to the house. In particular;
  - a) The licence holder shall put in place written ASB procedures detailing how complaints made to the licence holder will be dealt with, a copy of which shall be provided to the tenants in the information pack. The licence holder shall within seven (7) days of any demand by the council provide their written ASB procedure.
  - b) Where complaints of ASB or criminality are made to the licence holder, the licence holder shall investigate them and take action to resolve them. Copies of the complaint shall be kept together with notes arising during the course of the investigation and how the matter was resolved; and the licence holder must keep them for the duration of this licence. Where the licence holder has reason to believe that criminal activity is taking place at the property, the licence holder must ensure that the appropriate authorities are informed.
  - c) There may be instances where anti-social behaviour (ASB) occurs more than once, but not continuously and possibly intermittently over several months. In such circumstances the licence holder shall take all as far as reasonably practicable all steps he can to ensure that it is effectively dealt with, up to and including eviction.

## Draft proposed licence conditions for houses in multiple occupation (HMO)

**\* Indicates a statutory condition as prescribed by the Housing Act 2004**

An ASB guide with good practice to be completed by a licence holder can be found on the Council's website at <https://www.nottinghamcity.gov.uk/housing/landlords-guide-to-licensing-your-rented-properties/mandatory-licensing-for-hmos/>

### E. Change of Details or Circumstances

#### Notification

32. The licence holder shall inform the Council within 21 days of any material change in circumstances including:

- a) Change of their residential address or contact details; including when they no longer reside at the address on the licence, or where the licence holder is a business, if their business address has changed.
- b) upon the manager (where it is an agent, or employee of the licence holder,) ceasing to act in that capacity or is longer being employed by the licence holder,.
- c) any of the matters described within Appendix 3 have occurred in respect of either the licence holder and/or the manager of the house or any persons associated with them;
- d) where the licence holder is the manager of the HMO, upon them ceasing to be the manager of the property.
- e) change of manager, management arrangements or ownership;
- f) any proposed changes to the structure, layout or amenity provision of the property that would affect the licence or licence conditions.
- g) Where the Licence holder is accredited by a body approved by the Council upon termination of such accreditation

NB. Any material change of details or circumstances may require a variation or revocation of this licence. See appendix 2 for general guidance.

### F. Licence Holder Training

33. Where the licence holder has not attended relevant training in the previous three (3) years, they must as a minimum attend suitable training on the law and legal requirements relating to managing privately rented housing including HMOs within 12 months of the date the licence is granted. See appendix 4 for general guidance.

### G. Interpretation

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34. Where reports, certificates, declarations or other documents are required to be produced or supplied to the Council, this shall mean sending by submitting them via the online portal or via email.
35. Any reference to tenant or tenancy can also be interpreted to include occupancy by licence or other form of written agreement for the purposes of these conditions.
36. Where electrical works / certificates are required they shall be carried out by a suitably qualified electrical contractor who should be registered / member of an approved scheme such as NICEIC, ECA, NAPIT etc. or registered to undertake electrical works in accordance with Part P of the Building Regulations (unless exempt works). Electrical contractors that are on a relevant competent person scheme can be found at [www.competentperson.co.uk](http://www.competentperson.co.uk).

### **APPENDIX 1**

#### **FAILURE TO COMPLY WITH ANY LICENCE CONDITIONS IS AN OFFENCE**

**PROSECUTION / CONTRAVENTIONS CONSEQUENCES** - Please note that any prosecutions or enforcement action or legal action taken against the licence holder or anyone associated with licence holder, or the management of the property, may affect the licence holders 'fit and proper' status. The Council can revoke or vary the licence at any time, giving proper statutory notice.

**PENALTY FOR BREACH OF LICENCE CONDITIONS** - Failure to comply with any of the above licence conditions may result in similar enforcement action as described above and/or prosecution. The fine for a breach of licence condition is now **UNLIMITED** for each offence at prosecution or a Civil Penalty Notice could be served for **up to £30,000 for each breach**.

#### **LIMITATIONS OF THE LICENCE**

**LICENCE TRANSFER** - This licence can **NOT** be transferred to another person or organisation or property.

**REGISTERED COMPANIES** - If the licence holder is a registered company and it is dissolved while the licence is in force, the licence ceases to be in force on the date of dissolution.

**PROPERTY CONDITION** - This property licence is **NOT** proof or evidence that the house is safe and free from hazards and defects. The property licence does not prevent criminal or civil legal action being taken against the licence holder, or anyone else with an interest in the property, if any hazards or nuisances are found or any other problems discovered in relation to the condition of the property.

**BUILDING CONTROL** - This property licence does **NOT** grant any Building Control (Development Control) approvals, consent or permissions, retrospectively or otherwise. This property licence does

## Draft proposed licence conditions for houses in multiple occupation (HMO)

**\* Indicates a statutory condition as prescribed by the Housing Act 2004**

not offer any protection or excuse against any enforcement action taken by the Building Control (Development Control) Department.

**PLANNING PERMISSIONS** - This property licence does **NOT** grant, any planning approvals, consents or permissions under the Town and Country Planning Act 1990 or any related planning legislation, retrospectively or otherwise. You should check the Council's website to ensure the correct planning permissions are in place. This property licence does not offer any protection or excuse against any enforcement action taken by the Development Control Department. If you are unclear on the matters outlined above you should seek professional planning advice. [www.nottinghamCity.gov.uk/planning-and-building-control/planning-applications/do-i-need-planning-permission/](http://www.nottinghamCity.gov.uk/planning-and-building-control/planning-applications/do-i-need-planning-permission/)

**VARIATION** - No changes may be made to the use, layout or maximum occupancy level of the property without the Council's prior written consent. Where the licence holder or a relevant person applies to vary a licence they should do so at the earliest opportunity. The original licence stays in force until the variation is determined and comes into effect. A person making unauthorised changes may be liable to prosecution or other forms of enforcement action.

**LEASEHOLD AGREEMENTS** – It is your responsibility to check the terms of any lease that you hold to ensure that operating the property as a House in Multiple Occupation does not breach the terms of your lease.

**PLEASE NOTE** - It is your responsibility to ensure that you have any other necessary permissions or consents in place to enable the property to be used as a house in multiple occupation. The granting of a licence does not override any other private or public law provisions in this respect.

## APPENDIX 2 GUIDANCE INFORMATION

*These do not form part of the licence conditions, but you may still be under an obligation to comply with them.*

### Consumer Rights & Unfair Practices

The Office of Fair Trading's (OFT) guidance on unfair contracts when conducting their business, drawing up tenancies, contracts or the service of notices on tenants and/or agents. The Licence Holder must act in good faith and must not conduct actions which would be considered a misleading action or omission. Full information should be supplied to any prospective tenant including details of this licence.

Further advice can be found here,

<https://www.gov.uk/government/publications/unfair-contract-terms-cma37>

<https://www.gov.uk/government/publications/unfair-terms-in-tenancy-agreements--2>

### Gas Safety

If gas is supplied to the house the licence holder shall ensure the Gas Safety (Installation and Use) Regulations 1998 (or any Regulations which subsequently replace these) are complied with. Details of competent Gas Safe engineers can be found at [www.gassaferegister.co.uk](http://www.gassaferegister.co.uk)

### Electrical Safety

The licence holder shall ensure that the Electrical Equipment (Safety) Regulations 1994 (or any Regulations which subsequently replace these) are complied with. Certificates must be in the format recommended in the British Standards. All electrical checks, works and certification must be carried out by a competent person being a suitably qualified electrical contractor who should be registered / member of an approved scheme such as NICEIC, ECA, NAPIT etc. or registered to undertake electrical works in accordance with Part P of the Building Regulations (unless exempt works).

## Draft proposed licence conditions for houses in multiple occupation (HMO)

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### **Smoke Alarms, Fire Detection Systems & Emergency Escape Lighting**

Depending on the size, layout and occupancy of the property the licence holder may need to go over and above the legal minimum standards to adequately protect the tenants from fire and may also need to undertake a risk assessment. When doing this the licence holder should have regard to the current Building Regulations; and the LACORS Fire Safety Guide. The LACORS Fire Safety guidance is available at [www.nottinghamCity.gov.uk/environmental-health-and-safer-housing/private-sector-housing/](http://www.nottinghamCity.gov.uk/environmental-health-and-safer-housing/private-sector-housing/)

### **Competent Person**

A competent person is someone who has sufficient training and experience or knowledge and other qualities that allow them to assist you properly. The level of **competence** required will depend on the complexity of the situation and the particular help you need.

[www.competentperson.co.uk](http://www.competentperson.co.uk)

### **Furniture Safety**

The licence holder shall ensure that the Furniture and Furnishings (Fire Safety) Regulations 1988 (or any Regulations which subsequently replace these) in respect of any upholstered furniture supplied by them, including chairs, sofas, beds, upholstered head boards, mattresses, cushions, seat pads, pillows and upholstered garden furniture etc. are complied with.

### **Safety and Security of Property**

It is recommended that licence holders work towards improving the safety and security of their property by as a minimum complying with the Security and Standards of HMO and Rented Properties guide issued jointly by Nottinghamshire Police and Nottingham City Council, available at [www.nottinghamCity.gov.uk/HMO](http://www.nottinghamCity.gov.uk/HMO).

### **Property Management**

More information on dealing with waste can be found at [www.nottinghamcity.gov.uk/bin-and-rubbish-collections/](http://www.nottinghamcity.gov.uk/bin-and-rubbish-collections/). Licence holders may find it useful to include this link in the documentation provided to occupiers under condition 18.

### **Training**

The training requirement in conditions 33 is a minimum requirement and depending on the level of responsibility and complexity of properties involved the licence holder should consider undertaking further relevant training in line with the extent of their liabilities.

### **Deposits**

The licence holder shall ensure that any deposit taken as security for a tenancy is protected as appropriate by placing it in an approved tenancy deposit scheme. The tenant must be given the prescribed information about the scheme being used in a specified time.

### **Right to rent**

Only people with permission or a right to be in the UK have a right to rent property. As a landlord, you have a responsibility to restrict illegal immigrants accessing the private rented sector. If you are found letting to someone who does not have the right to be in the UK, and you cannot show that you have made right to rent checks, then you could face a penalty of £3000. For more information visit [www.gov.uk/check-tenant-right-to-rent-documents](http://www.gov.uk/check-tenant-right-to-rent-documents)

### **Energy Performance Certificates (EPCs)**

Licence holders shall ensure they comply with relevant legislation, ensuring tenants have sight of a current EPC for the property at the appropriate time. From 1<sup>st</sup> April 2018 domestic properties in England and Wales must have an EPC certificate with a minimum E rating for energy efficiency.

### **Redress scheme**

Where the licence holder is also a letting agent or property manager they shall be a member of a relevant property redress scheme. More information is available at [www.gov.uk/government/publications/lettings-agents-and-property-managers-redress-schemes](http://www.gov.uk/government/publications/lettings-agents-and-property-managers-redress-schemes)

## Draft proposed licence conditions for houses in multiple occupation (HMO)

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### Changing Use (converting family housing to a HMO)

Licence holders proposing to convert properties from single occupancy into HMOs should be aware that planning permission is required. More information is available at [www.nottinghamCity.gov.uk/planning-and-building-control/planning-applications/do-i-need-planning-permission/](http://www.nottinghamCity.gov.uk/planning-and-building-control/planning-applications/do-i-need-planning-permission/)

### To Let boards

In Nottingham there are controls on to let boards in certain parts of the City. More information is available at [www.nottinghamCity.gov.uk/planning-and-building-control/planning-applications/do-i-need-planning-permission/controls-on-to-let-ad-boards/](http://www.nottinghamCity.gov.uk/planning-and-building-control/planning-applications/do-i-need-planning-permission/controls-on-to-let-ad-boards/)

### Electoral Registration

If you live in Nottingham City, access to certain services may be affected if you are not on the electoral register. It is a legal requirement to be on the electoral register. For more information please visit [www.nottinghamcity.gov.uk/about-the-council/voting-elections/register-to-vote/](http://www.nottinghamcity.gov.uk/about-the-council/voting-elections/register-to-vote/)

## Appendix 3 Fit & Proper Persons (see condition 32(c))

A person who has acted in contravention of any of the following, will not be considered Fit & Proper:

- a) Commission of an offence involving: fraud, dishonesty, violence, drugs and sexual offences.
- b) Practiced unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in connection with a business.
- c) Contravened any provision of housing or landlord and tenant law
- d) Acted in contravention of any Approved Code of Practice
- e) or any Banning Order offences

## Appendix 4 – Training (see condition 33)

This requirement for condition 32 can be satisfied by the completion of a one-day training course or online equivalent covering the law and legal requirements relating to managing privately rented houses. Once completed, submit a certificate or other confirmation to the Council following this training. The following are recognised as providing a suitable course to satisfy this condition.

Organisation	Course	Website and email or web form address	Contact number
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## Draft proposed licence conditions for houses in multiple occupation (HMO)

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DASH Services	Landlord Development Course	<a href="http://www.dashservices.org.uk">www.dashservices.org.uk</a> <a href="mailto:linda.cobb@derby.gov.uk">linda.cobb@derby.gov.uk</a>	01332 641111
East Midlands Property Owners (EMPO)	Basic Law for Lettings	<a href="http://www.empo.co.uk/training-courses.html">www.empo.co.uk/training-courses.html</a> <a href="http://www.empo.co.uk/contact-us.html">www.empo.co.uk/contact-us.html</a>	0115 9502639
National Landlords Association (NLA)	Foundation Course	<a href="http://www.landlords.org.uk/foundation">www.landlords.org.uk/foundation</a> <a href="http://www.landlords.org.uk/contact-nla">www.landlords.org.uk/contact-nla</a>	020 7840 8920
Residential Landlords Association (RLA)	Landlords Principles of Letting or Agents Principles of Lettings (e-Learning also available)	<a href="http://www.rla.org.uk/landlord/courses/landlord_training_courses.shtml">www.rla.org.uk/landlord/courses/landlord_training_courses.shtml</a> <a href="mailto:info@rla.org.uk">info@rla.org.uk</a>	03330 142998
National Approved Letting Scheme (NALS)	Foundation Lettings Course	<a href="http://www.nalscheme.co.uk/nals-professional-development/info@nalscheme.co.uk">www.nalscheme.co.uk/nals-professional-development/info@nalscheme.co.uk</a>	01242 581712
Unipol – Unipol members only	Unipol online or classroom based landlord course	<a href="http://www.unipol.org.uk/">www.unipol.org.uk/</a> <a href="mailto:code@unipol.org.uk">code@unipol.org.uk</a>	0115 9345020

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## Operational Model for the Proposed New Additional Licensing Scheme 2019

### Highlight Summary

- An estimate 1800 properties will be licensable.
- Reviewed team structure.
- Reviewed fee structure.
- Reviewed fee payment methods
- Reviewed Licence Conditions
- Requirement for landlords to be proactive in managing their properties.
- Aligning the HMO licensing schemes.
- Pass porting of licences.
- Overhanging applications and licences.
- Online applications system.
- Signposting for benefits beyond licensing i.e. trading standards, planning, fuel poverty and access to other support.

### Background

The introduction of new additional licensing scheme will bring an estimated 1,800 privately rented HMO properties into the licensing framework over the 5 year period of the scheme.

The current Additional Licensing scheme has approximately 2200 properties licenced. With the imminent legislative changes to mandatory licensing coming in to force on the 1<sup>st</sup> October 2018 it is likely approximately 600 properties licenced under the Council's current additional licensing scheme will passport into mandatory licensing.

The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 <http://www.legislation.gov.uk/ukxi/2018/221/contents/made>.

Approximately 100 properties currently licenced under the Additional Licensing scheme will become licensable under the Selective Licensing scheme these are properties such as flats occupied by one or two persons and/or families.

It is suspected that approximately 1000 properties remain unlicensed under the current Additional Licensing scheme. A more robust fee structure will incorporate extra enforcement officers to proactively tackle rogue landlords and those who fail to licence for whatever reason. The Council wants to recognise good and compliant landlords who apply as and when required to do so and proactively manage their properties to a high standard and reduce the burden on these businesses.

The operational delivery of additional licensing will be delivered by the Community Protection Environmental Health, Housing Licensing and Compliance (HLC) Team under the umbrella of Safer Housing. The HLC team deals with the licensing of houses in multiple occupation, compliance and enforcement of these licences. This team is established and will continue to undertake the additional licensing and mandatory licensing work. Licensing (Additional & Mandatory) will fund new four officers to identify, investigate and take enforcement action where failure to licence is suspected. The Safer Housing is responsible for responding to citizen complaints about poor properties, illegal eviction, and rogue landlord along with supporting landlord's tenants, partners and community in matters relating to the provision of a quality private rented sector.

The proposed Additional Licensing scheme will operate on the basis of issuing licences mainly based on the information contained in the application form and the applicant's self-declaration. This will require the applicant (usually landlords) to provide a fee and a good quality application containing all

of the required information and documents, including, amongst other things, certificates (e.g. the current gas safety certificate and an electrical safety reports) and annotated property plans.

The Council will undertake a desk top assessment, putting the onus on the applicant to provide the appropriate information necessary to allow the Council to determine the application and either issue or refuse the licence. The objective is to issue licences efficiently so that licence conditions (and hence controls) are in place. Compliance with licence conditions will secure improved housing standards and management. Where deemed necessary following the desk top risk assessment an inspection may be made before the licence is issued. “Less compliant landlords”<sup>1</sup> and those who have deliberately avoided making an application will be inspected prior to any licence being issued.

The Council will contact occupiers to make them aware that a licence has been granted (and about how to make a complaint should there be concerns that the licence holder or manager is not meeting their legal duties or the property is not up to standard. Licence holders will be required to provide a copy of the licence to the occupiers detailing the conditions the licence holder has to comply with and this must be displayed and available in the property at all times.

Licence holders will be notified and warned when they receive their licence that they should be proactive in managing their properties, that they should visit and assess their house and take action to prevent and remove hazards to protect the safety and health of the tenants. The licence conditions will require landlords to be proactive in managing their properties and will require them to have written procedures and processes in place, good tenancy management arrangements and will require production of safety certificates to ensure safety and adequate management.

This robust system will allow the Council to focus resources on less-compliant and more criminal rogue landlords to ensure that appropriate action is taken when necessary. Properties operated by these landlords are likely to be the worst managed and maintained properties, which operate under the radar and pose the greatest risks to the tenants. This operation model will ensure a robust new scheme that should be supported by those good landlords who want to see the whole sector improve.

Processing licences efficiently and effectively coupled with appropriate enforcement of the licence conditions through risk based compliance inspections and robust enforcement against those not applying are vital to the success of the scheme and to modify some less compliant behaviours.

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<sup>1</sup> A “Less compliant Landlord” is one that is a misinformed, unaware or accidental landlord who operates without proper knowledge of legislative requirements and who may only comply with requirements once prompted and guided.

## Additional Licensing Scheme Duration - 1<sup>st</sup> January 2019 to the 31<sup>st</sup> December 2023

**Table 1** demonstrates the scheme is for five years and there will be a cycle of activity throughout that period as indicated in grey. The staffing structure will reflect these priorities and be flexible to support changes as they occur during the scheme and activities shall be continuing until the last licence expires, should they continue to be issued up to the end date of the newly proposed scheme. Bi-annual scheme reviews will be undertaken.

**Table 1: Proposed scheme priorities**

Year	Promote	Process	Engage	Enforcement	Compliance	Review
1						
2						
3						
4						
5						

### Aligning the Schemes & Proposed Operational Changes

To ensure that the current scheme of Additional Licensing and the newly proposed scheme of Additional Licensing are aligned to run back to back, a number of changes will need to be implemented to ensure a seamless transition. Legislative changes have also been factored in.

Mandatory Licensing is changing, The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 20182 ('the Prescribed Description Order 2018') amends the description of a Mandatory licensable HMO to include all HMOs with 5 or more persons comprising of two or more households regardless of the number of storeys in the property. A significant number (approximately 600) of premises licensed under the Council's current Additional Licence scheme will now be classed and treated as mandatory Licensable HMOs.

A second statutory instrument, the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 ('the Mandatory Conditions Regulations 2018') amends Schedule 4 of the Act, introducing new conditions that must be included in licences that have been granted under Part 2 of the Act. The Council's conditions will be amended to effect these changes when they come into force on 1<sup>st</sup> October.

These are:

- Mandatory national minimum sleeping room sizes; and
- Waste disposal provision requirements.

### Passporting of Licences

Licences issued under the current designation of Additional Licensing are already issued under the same Part of the Housing Act 2004 ("the Act") and are subject to the same standard conditions as licenses issued under the Mandatory scheme. As such the change from Additional to Mandatory licensing will be of minimal effect and the 'passporting' to Mandatory Licensing is in name only to No 'fee' will be chargeable.

It is proposed that any current pending or new applications received in the period up to 31<sup>st</sup> December 2018 will be processed and either passported as appropriate into Mandatory Licensing (for those

applications received before 1<sup>st</sup> October where the premises meet the definition in the 2018 Order) or, if approved, into the proposed new scheme of Additional Licensing.

### **Removal of Section 257 HMOs**

It is proposed that Section 257 HMOs will be exempt from the new scheme of Additional Licensing. Where rented out the individual self-contained flats within section 257 HMOs, may however be required to be licenced under either Selective or Mandatory licensing, depending on the nature of their occupation and, for Selective Licensing, whether they are located within the Designation. The number of s257 HMOs is not high and should any new applications fall to be considered in the last few months of the current Additional Licence scheme they will be redirected for consideration under the relevant alternative scheme.

### **Overhanging Licences**

Licences that have a period of licence remaining after the end date of the current Additional Licensing scheme (31<sup>st</sup> December 2018) are referred to as 'overhanging licences'. It is proposed that they will be passported into the proposed new Scheme of Additional licensing, if approved. These licences will continue to remain in force until their expiration date. The Licence Holders will not be required to take any action at this stage and they will be contacted at an appropriate point in the future regarding their renewal application.

### **Extensions by Agreed Variation**

For a period during the current scheme of Additional Licensing it was the Council policy to only grant licences for a period ending on the expiry of the scheme. This policy was subsequently reviewed and revised following a tribunal decision.

There are a number of licences granted under this former policy which are due to expire on 31 December 2018 and which ordinarily would have been granted for a full 5 year period.

It is proposed that these Licences be assessed as to whether they are suitable for a Variation on a case by case basis. Where appropriate Licence Holders will be offered a Variation to extend their licence duration in order to give them a full five year period of licence commencing from the application 'duly made' date subject to them agreeing to be bound by the revised licence conditions for the new scheme. They will then become "overhanging licences" as described above and treated in the same way. This proposal only applies to those licences due to expire on 31 December 2018 and **not** to any other licences where the Council exercised its discretion to grant a licence for a shorter term due to concerns about the property or its management. If the licence holder does not agree the variation then these licences will expire on 31 December 2018 and a new application must be made under the new scheme (if approved)

### **Review of the Fee Structure**

A separate Board Report has been submitted containing greater detail in regards to the fee setting and review. The proposed fees have been calculated using an updated Local Government Association (LGA) toolkit to ensure value for money, but also to ensure that all allowable costs are recovered. Based on these proposals the Mandatory and Additional Schemes have been presumed to be running in parallel, the fee has been calculated and based on costs for a forecast of 4,800 licences applications being received over a five year period (Mandatory is estimated to receive 3000 applications and Additional 1800 licences). The teams will continue to work together and have costs proportionally allocated across the two schemes. Separate scheme budgets and reporting will continue to be maintained.

### **Scheme Outcomes & Reviews**

The new additional licensing scheme is anticipated to be in force for 5 years from the 1<sup>st</sup> January 2019 and it is likely to take the entire 5 years to reap the full benefits of the scheme. Time will be

needed for robust enforcement action to be taken against rogue landlords and for behavioural change to be achieved and recognised.

Governance, and robust monitoring will be in place and formal reviews will take place during the scheme, as per the requirements of the Housing Act 2004.

### Staffing

The outcome of the fee modelling; forecasts that the service requires 27 staff members, processing and carrying out compliance work with an additional 4 staff members for enforcement, making a total of 31 for Additional and Mandatory Licensing.

The current team structure is for 25 posts, and is currently made up of 23 staff members of varying grades for the processing and compliance activity, there are currently a number of vacancies as detailed in table 2. Approval to recruit and fill posts as a result of the fee review will be subject to separate approval, with the recruitment exercise scheduled for late September 2018. All staffing costs are recovered from the licencing fee.

It is estimated that the staffing number requirement for Additional Licensing will be on average 11.5 at a cost over five years of £2,217,395 if all posts were filled for the entire scheme.

This is based on receiving on average 360 Additional licence applications each year. However depending on the profile spread of applications coming in and the quality of applications made, staffing numbers may increase and decrease as the scheme moves forward.

**Table 2** Current and Proposed staffing.

	<b>Designation</b>	<b>Current</b>	<b>Proposed</b>
<b>Management</b>	Operations Manager	1	1
	Principal Environmental Health Officer	2	3
	Licensing Support Team Leader	1	1
<b>Processing and compliance</b>	Environmental Health Officers (EHO)	2	5
	Regulatory Compliance officer	1	2
	Enforcement Officer	9	10
	Licensing Supervisors	1	1
	Licensing Support Officers	6	4
<b>Enforcement</b>	Enforcement Officers	0	2
	Environmental Health Officers	0	2
<b>Vacant</b>	Environmental Health Officers	2	0
<b>Total</b>		25	31

The income will not be received uniformly throughout the five year period. An earmarked reserve will be created to be drawn down on as required.

### Applications Form & Payments

The proposed staffing structure will enable applications to be processed in a reasonable time. The Council will aim to determine licence applications within 6 months of a duly made valid application being received. Depending on volume and rate of applications received per year this will be challenging and will be kept under review. The staffing and recruitment plan is flexible with potentially changing numbers of officers and roles required over the five years.

Staffing levels will be monitored to ensure applications will be processed in a reasonable time. It is anticipated that there will be an initial spike in the number of applications received next year. If there is a spike in applications early on staff numbers will have to be increase to ensure adequate resource are available to process these and then reduce down over the latter parts of the 5 year scheme to balance this out. There will be a budget impact on overheads etc. that is incorporated into the 5 year budget plan and fees.

The operational plan (including staffing and fee) is based on a totally online application process. The IT solution of online applications and an interactive customer delivery focussed system is critical in delivering and ensuring licences are issued in a reasonable time and the Council's Firmstep application form will be used for this purpose.

It has been recognised that a paper based application form will need to remain available and this will be freely available on the website for citizens to download and print off themselves at no extra charge. An additional charge will be made if the Council is requested to print and post a paper application form, and a further charge for manual processing the paper application will also apply.

Fee payments will become due as detailed in Appendix 1 of the "Housing Licensing Houses in Multiple Occupation (HMO) Revised Fee Structure 2018" Executive Board Report of 17 September 2018. Payments made by Cheques or Bankers Cheques will not be accepted after the 31<sup>st</sup> December 2018. Card Payments can now be taken over the phone and BACS payments will be available from the 1<sup>st</sup> January 2019. Other electronic payments facilities are being explored.

### **Reviewed Licence conditions**

To ensure the scheme meets the aims it sets out to achieve the licence conditions proposed in the appendix 3 "Proposed Licence Conditions for Houses in Multiple Occupation (HMO)" have been further reviewed and will be implemented in combination with the change of fee.

Some of these are statutory conditions required by the Housing Act 2004 and others are proposed conditions that have been developed to ensure improved housing standards and determine landlord competency, pro-active management, and to reduce anti-social behaviour. The conditions also include reference to other guidance and information directing licence holders to relevant duties and obligations imposed by other legislation. The conditions will be subject to review during the course of the scheme.

Specific licence holder and/or manager may have property specific conditions with specified time scales for completion may also be added should it be felt to be appropriate; all of these conditions will contribute to providing safer well managed properties and achieving the scheme aims.

### **Issuing of Licences**

HMO licences may be granted and valid for up to 5 years. Council There may be times when a shorter licence duration is more appropriate and in the following cases a 1 year licence may be considered to allow the Council to closely monitor the management and compliance of the licence or to allow the landlord to seek to ensure that appropriate the correct permission(s) or authorisations are in place:-

- the property does not appear to have the appropriate planning permission or contractual lenders consents.
- the application follows a request or investigation made by the Council, when it should have been licensed previously.
- there is evidence of previous poor management and ongoing concerns in regards to the management of a HMO.

### **The process once an applications is received:**

- The application processed and is accepted as duly made or rejected and returned to the applicant.
- Review the properties compliance history to determine the appropriate fee is paid
- Applications are risk rate and inspections carried out, when identified as high risk
- An assessment is made to assess if the landlord, proposed licence holder and managers are all fit and proper.

- The amenities and space standards are assessed to see if they are suitable for multiple occupation
- All safety certificates and documents are checked and verified.
- Licence conditions are considered and any specific conditions that may be required over and above the standard conditions are added. These are key to achieving improvements in property conditions and management.
- Issue the licence with the standard conditions and additional conditions and then enforce the condition through compliance or;
- Refuse licences or reduce the licence period if there are concerns about the property, proposed licence holder and or management arrangements. This allows the Council to monitor the performance of management, ensure legal duties are met and review property conditions as appropriate.

#### **Once the licence is issued;**

- Encourage and require landlords to adhere to the licence conditions and to take proactive action to prevent hazards to health at the property.
- Encourage and require landlords to be proactive to prevent extra intervention and enforcement by the Council becoming necessary.
- Carry out compliance checks and hazards safety assessment, taking enforcement action as appropriate.
- Improve landlord knowledge, awareness and behaviours through requirements for training.
- Cascade important information to landlords when possible by digital platforms such as email and social media.
- Regularly communicate with tenants during the scheme to seek tenant's views on property standards and management.
- Engage, advice and support landlords and tenants.
- Proactively find and tackle landlords and those who fail to licence.
- Proactively engage with licence holder where ASB is identified.
- Proactively find and deal with criminal rogue landlords.
- Work with partners and stakeholders to achieve added value and benefit for citizens.
- Continue to support, liaise with and advise, landlords, tenants and communities.

#### **Nottingham Landlords**

Licensing has identified that there are essentially three groups of landlords operating and managing HMOs within the city. The resources required to identify, assess, process and manage the application along with the determination of the licences application, compliance and enforcement for these three groups can vary considerably and this has been reflected in the proposed revised fee structure.

The three groups comprise of: -

- Good Landlords, who are essentially aware of their legal responsibilities, provide properties that are of good quality that are compliant with standards and well managed. This group will proactively seek to licence during the transition period for licensing or plan for the introductions of new schemes and some of these Landlords will go on to take up accredited but not all.
- Less compliant, misinformed, unaware or accidental landlords, who operate without the proper knowledge of legislative requirements, leads to a mixed and often poor standard accommodation (particularly in relation to fire safety and management) once prompted and guided they usually comply with requirements and submit relevant documentation but this can be a long and intensive process sometimes resulting in multiple visits and enforcement activity.

- Rogue landlords, who deliberately avoid making licence application, offer a very poor standard of accommodation combined with a poor management and who put profit before safety. They will have little regard for tenant safety, welfare and pay no regard to the legal eviction procedures. Upon threat of enforcement action they will either finally make a very poor attempt to licence with the application taking many months to process or look for ways to avoid licensing such as removing tenants and sealing off rooms. Enforcement action is usually associated with this group.

### **Proactive Enforcement**

Appropriate enforcement will be taken against those not licensing their properties. A team will be in place to support enforcement of the scheme and undertake intelligence lead, proactive, risk based investigations, working with partners to target unlicensed properties.

Where licenced properties or their management is causing a problem appropriate enforcement action will be undertaken this will include review of any current licences and/or any other appropriate enforcement action. This will help ensure a robust scheme is maintained and continues to develop and acts as a deterrent for those rogue landlords that fail to co-operate.

### **Risk Based Compliance**

Once licences are granted, a desktop assessment and risk based inspection programme will be used to check compliance with the licence conditions. This risk based inspection will target resources at areas with the highest levels of ASB, crime, deprivation, poor property conditions and where there are complaint received and where there is a concern about poor management practice.

Where standards fall below the appropriate level at compliance inspections, enforcement action is likely to be taken and extra inspections may be necessary. There will be a charge for missed inspections. During the compliance process a hazard assessment under part 1 of the Housing Act 2004 is likely to be undertaken (although this cannot be charge for in the application fee). The Council will move automatically to enforcement action where properties are unsafe and contain serious hazards affecting the health, safety or welfare of the occupants.

Failure to comply with licence conditions or provide satisfactory property conditions and/or management of the property will lead to a licence review and possible revocation or reduction in licence term. Undertaking inspections as part of the licensing process has and will continue to help improve property conditions and ensure that the properties are safer for the occupants. The Council will expect works to be completed within appropriate timescales following advice or service of a legal notice/order. Where there is evidence of non-compliance the Council will use the appropriate compliance and enforcement option as detailed in the Housing Enforcement and Compliance Guidance document.

Some costs for inspection, compliance and enforcement are covered in the licence fee, some are not and are borne by the Council or are charged back to the landlord as detailed below in the proposed fee structure.

### **The Nottingham Standard Accreditation Scheme**

Accreditation of private rented sector properties has been in place in the City for a number of years and is now branded as the 'Nottingham Standard'. The accreditation schemes that meet the Nottingham Standard are managed outside of the Council and form a voluntary and market driven approach for improving and recognising good housing standards and landlord's that go above and beyond the legal minimum.

If an applicant is accredited a licence will be issued as the Council accepts that the training, checks and inspections in place as part of the accreditation scheme should adequately meet its requirements for safety and good management. The Council regularly meets with accreditation providers and keeps a record of their property inspections.

The Council will only make inspections of properties licensed by accredited applicants if they are asked to do so by the accreditation provider or if there are complaints. By way of audit the Council expects to inspect about 20% of properties licensed by accredited landlords during the 5 year cycle of the new scheme,(if approved) so as to ensure consistency and compliance amongst accredited landlords whilst recognising that they pose a lower risk.

Applicants that are accredited under the Nottingham Standard will normally pay a discounted fee for the discounted accredited licence fee of £990, this is determined on a case by case basis. The fee model details the lowest cost that is possible for issuing the licences and securing compliance. The current scheme sees 38% of properties accredited and claiming the discount.

Where accredited landlords fail to meet their licensing requirements, the Council will work closely with its partners to consider whether or not they should continue to be an accredited member as well as considering whether the licence should be reviewed. Accredited landlords will not be offered a discounted fee, if they have paid the finder fee and this will be reported to the appropriate scheme provider. Landlords will be required to maintain membership of the relevant scheme for the full duration of the licence term to receive the discount. The consultation outcomes for Selective Licensing and the more recent consultation on Additional Licensing recommended the widening of greater cost differential between the licence fee for accredited and non-accredited applicants and the reviewed fee proposals reflect this.

A full review will be carried out over the next twelve months formalising the standards that accreditation schemes are required to satisfy in order to meet the Nottingham Standard with a view to additional organisations being eligible for accreditation status.

#### **Performance Reviews of the Current Scheme**

The delivery of all aspects of the current scheme have been regularly monitored and a report on operational delivery completed. The current scheme has been formally reviewed November 22<sup>nd</sup> 2016 published here <http://committee.nottinghamcity.gov.uk/mgAi.aspx?ID=15258#mgDocuments> during the 5 year cycle and again at the end of last year 2017 for the evidence gathering and proposal for the proposed new scheme.

These reviews have shown

- 2389 applications had been received
- 2204 licences had been issued
- 61% of properties were visited prior to the licence being granted
- 63% of licences issued had extra condition applied
- 159 licences had been refused
- 106 licences had been revoked
- 219 licences had been varied
- 11% of application had the finder fee applied
- 3356 safety documents had been inspected and verified
- 1067 properties had compliance visits
- 939 HMO amenity standards were not satisfactory at the time of the first visit

#### **Proposed Review for Performance Delivery**

A Governance Structure has been established to oversee delivery and outcomes. A performance framework covering, income and expenditure, delivery against purpose, review and development as well as risk will be in place. The Governance will be tiered to including Portfolio Holders, Senior Officers and those involved with delivery.

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## Equality Impact Assessment Form

[screentip-sectionA](#)

### 1. Document Control

#### 1. Control Details

Title:	Proposal to Implement a Scheme of Additional Licensing for HMOs 2019-23
Author (assigned to Pentana):	Ceri Davies
Director:	Chris Henning/Andy Vaughan
Department:	Development & Growth/Commercial & Operations
Service Area:	Housing Strategy
Contact details:	<a href="mailto:ceri.davies@nottinghamcity.gov.uk">ceri.davies@nottinghamcity.gov.uk</a> 0115 8763530
Strategic Budget EIA: Y/N	N
Exempt from publication Y/N	N

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#### 2. Document Amendment Record

Version	Author	Date	Approved
0.1	Ceri Davies	14.08.2018	
1.0	Ceri Davies	20.08.2018	

#### 3. Contributors/Reviewers

Name	Position	Date

**4. Glossary of Terms**

Term	Description
Houses in Multiple Occupation (HMOs)	Houses that are shared by more than 3 people who are from 2 or more different households e.g. student houses
Additional Licensing	Where a HMO is within the Council’s Additional Licensing Designation made under section 56 of the Housing Act 2004 and the a landlord has to obtain a licence subject to a set of conditions for each of the HMOs they control. If a property is subject to Additional Licensing it is an offence to let it without a licence.

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[screen tip-section B](#)

**2. Assessment**

**1. Brief description of proposal / policy / service being assessed**

**Brief description of proposal / policy / service being assessed:**

Additional licensing of Houses in Multiple Occupation (HMOs) is a power available to local housing authorities within the provisions of the Housing Act 2004. Section 56 of the Act allows local housing authorities to designate areas, or the whole area, of their district as being subject to additional licensing in respect of some or all of the classes of HMOs that are not already subject to Mandatory Licensing.

Under the proposed scheme, all HMOs in the Designation, that are not exempt or subject to Mandatory Licensing will require a licence from the Council. There is a fee for the licence (which is the subject of a separate Report and EIA ), that is based on the costs of administration and operation of the scheme and licences can be refused or revoked if properties do not meet the management or condition standards required.

The Council is proposing to implement a scheme of additional licensing scheme in a designated area – see Appendix 1.

Continued use of the Additional Licensing powers will provide the following benefits:

- An opportunity to continue to influence higher standards of HMO accommodation and to ensure effective management through more extensive control; and
- Lead to higher levels of citizen satisfaction with private rented sector accommodation within the City.

Nottingham has had a scheme of Additional Licensing in place since January 2014. The scheme has been a success, improving the condition of HMO properties and reducing associated Anti-Social Behaviour (ASB), however it is believed that 5 years is insufficient to bring about and sustain the long term improvements required. Therefore, an evidence gathering and analysis exercise was undertaken to see if a further scheme was required and if so the extent of the designation required. Consultation on the proposed new scheme and Designation was undertaken between May and July 2018, with the decision to consult approved by Executive Board in April 2018 and subject to a separate EIA.

This EIA will therefore consider the points raised previously along with further points raised during the consultation.

#### References

1. Housing Act (2004) Section 56 - <https://www.legislation.gov.uk/ukpga/2004/34/part/2/crossheading/designation-of-additional-licensing>

## screeintip-sectionC

### 2. Information used to analyse the effects on equality:

- Census 2011 and Household Projections;
- Issues and indications arising from full consultation on the previous scheme of Additional Licensing (2013-18).
- Ethnicity monitoring via Additional Licensing applications.
- Building Research Establishment (BRE) 2016 [www.nottinghaminsight.org.uk/f/183870](http://www.nottinghaminsight.org.uk/f/183870)
- May 2018 Consultation on Proposal for an Additional Licensing Designation.

**3. Impacts and Actions:**

<u>screenip-sectionD</u>	Could particularly benefit X	May adversely impact X
People from different ethnic groups.	X	X
Men	X	<input type="checkbox"/>
Women	X	<input type="checkbox"/>
Trans	X	<input type="checkbox"/>
Disabled people or carers.	X	<input type="checkbox"/>
Pregnancy/ Maternity	X	<input type="checkbox"/>
People of different faiths/ beliefs and those with none.	X	X
Lesbian, gay or bisexual people.	X	<input type="checkbox"/>
Older	X	<input type="checkbox"/>
Younger	X	X
Other (e.g. marriage/ civil partnership, looked after children, cohesion/ good relations, vulnerable children/ adults).	X	<input type="checkbox"/>
<b><i>Please underline the group(s) /issue more adversely affected or which benefits.</i></b>		

<p><b><u>screeintip-sectionE</u></b>  <b>How different groups could be affected</b>                      (Summary of impacts)</p>	<p><b><u>screeintip-sectionF</u></b>  <b>Details of actions to reduce negative or increase positive impact</b>                      (or why action isn't possible)</p>
<p><b><u>Summary</u></b></p> <p>The most significant difference in impact will be between the two groups that Additional Licensing directly affects most – tenants and landlords; to a lesser though still significant extent it will also impact members of the broader communities that have a high number of HMOs and are covered by the designation.</p> <p>As groups, HMO tenants and HMO landlords are diverse and consideration must be given to whether any potential benefit or adverse impact of the scheme relates to the tenant/landlord/community overall or to a particular equality strand represented within them.</p> <p>The positive impact of the scheme - improved property conditions, safety, tenancy management, community relations and reduced ASB - can be continually improved via monitoring and enforcement action against non-compliant landlords</p> <p>It is felt that overall the benefits of additional licensing outweigh the potential disadvantages; it is believed will have a positive impact on the groups that use HMO accommodation , including vulnerable, low income or otherwise economically disadvantaged</p>	<p><b>Action(s):</b></p> <p><b>Ongoing liaison and engagement directly with and with groups representing landlords, tenants and their component communities and a range of will be undertaken to ensure engagement with a broad range of stakeholders. Issues of communication and understanding in respect of learning from the existing scheme and for any new scheme will be factored into operational delivery.</b></p>

**People from different ethnic groups**

The population of those living in the City's Private Rented Sector (PRS) comprises people from a range of different BME communities and concentrations of the City's BME households coincides with concentrations of the private rented sector accommodation. The tenant profile of HMOs is likely to be less diverse than that of the PRS overall, however we know that in certain areas of the City HMOs accommodate significant proportion of certain BME groups, particularly single, economic migrants such as those from Eastern European countries. Overcrowding can be an issue in some areas and illegal conversions of properties particularly affect new and emerging communities, as does poor or improper tenancy management.

**Potential benefit:** Additional Licensing would bring improved quality and safety of accommodation for BME tenants living in HMOs and assist in the identification and removal of landlords who cause negative impact to vulnerable BME or new communities via substandard or illegal accommodation.

**Potential adverse impact:**

**(a) Landlords**

During consultation on the previous scheme of additional licensing it was put forward that the scheme would disproportionately and adversely impact the South Asian community. Many HMO landlords are of South Asian (Indian and Pakistani heritage) and residential property investment is a key strand of the named communities' financial interests, therefore any adverse financial impact of the scheme on landlords would be disproportionately felt.

There is limited data available on landlord ethnicity, however that collected (105 volunteered responses via the licensing application process), 40% were White British/Irish, 47% were Asian and 13% were Black or Other Ethnicity. Of the Asian landlords, 62% were Asian Pakistani, meaning this particular

**Action(s):**

- **Continue to collect bi-annual ethnicity data from landlords applying to the scheme, with analysis of any change in dynamic or BME communities entering or exiting this market.**
- **Increased engagement with landlords from communities of interest via dedicated resource in the Safer Housing Team.**
- **Continue to make information and good practice available in a range of accessible and easy read formats.**

ethnicity makes up 35% of the total respondents.

It is acknowledged that this is a complex issue and that support will be required to ensure that different communities understand what licensing means for them, what is expected of landlords and that they are able to comply with the requirements.

**(b) Tenants**

Concern has been raised that licensing will inevitably cause an increase in rents as a result of the increased landlord expenditure on the licence and the costs of complying with licensing conditions. Though the proposed designation covers areas of the city with higher proportions of BME households, there is no evidence to suggest that the overall HMO stock is disproportionately occupied by BME households. Based on the main groups known to use HMO accommodation, it is likely that overall the concentration of BME households is less than in the PRS as a whole.

It is understood however, that the type of HMOs subject to additional licensing, do accommodate large proportions of some newer BME communities, namely EU citizens of Eastern European and African descent as well as single refugees and asylum seekers. Such households could be negatively impacted or displaced by an increase in rents, especially as they may not be eligible to receive assistance or public funds. Similarly, landlords could limit themselves to “safer” options in terms of rental security reducing the availability of accommodation to these groups.

Overall, the additional cost to landlords is considered to be small as a proportion of rental income, especially across the term of the licence it should not equate to more than a few pounds per week. Although it is acknowledged that those with larger portfolios will need to pay for multiple licences. Further, a reduction in the fee is proposed for those landlords who are accredited under the Nottingham Standard.

**Action(s):**

- **To work with partner organisations and departments to monitor any increase in people from HMOs making presentations or seeking advice due to impact of licensing.**
- **To work and negotiate with landlords to prevent homelessness at an early stage.**
- **Encourage landlords to engage with Nottingham Private Rented Assistance Scheme to provide housing for those at risk of homelessness.**

There is a risk however that the costs to landlords associated with Additional Licensing will be passed on to tenants, however there is no evidence to suggest that increases in HMO rents to date are driven exclusively by the introduction of the scheme . Increases in HMO rents were observed after the introduction of licensing however, they were also seen in cities – notably with similar student populations – that did not have a licensing scheme in place.

The risk of rent increases is therefore one that council is aware of, but one which is based on speculation.

Specific concerns were raised in the consultation about the impact of Additional Licensing on the availability of housing for refugees and asylum seekers, for whom less expensive HMOs often provide accommodation.

The Council does not believe that standards of accommodation should be compromised in the interest of greater affordability or preservation of profit margins and believe that the standards required by licensing are ones that landlords should already be meeting. In response to the specific concern above, it would be unfair to both vulnerable households, and in the case of those households receiving assistance, the public purse, for them to resort to accommodation below the standards outlined.

### **Disabled People or Carers**

It is acknowledged that HMOs may be home to number of people with learning disabilities or mental health issues, particularly as HMO accommodation is used by younger, single people in receipt of Local Housing Allowance.

Tenants with health issues are also much more likely to be affected by problems with damp and housing disrepairs. They

may also face problems with communication and getting repairs done quickly.

**Potential benefit:** Improvement in the property standards and tenancy management will have a positive impact on health and security of tenants, something of particular benefit to those who may be vulnerable due to mental health needs or a learning disability.

### **People of different faiths/beliefs and those of none**

Issues or links between particular BME groups and the impacts of additional licensing could also apply to this equality strand.

Having identified that many landlords are from South Asian, or more specifically Pakistani, backgrounds, it should be noted that the Muslim community may not receive, for religious reasons, 'interest' from investments and therefore property is a preferred investment for many, hence this makes this community sensitive to any matters that could affect property prices or yields.

As previously stated, the Council does not believe that standards of accommodation should be compromised in the interest of greater affordability or preservation of profit margins and believe that the standards required by licensing are ones that landlords should already be meeting.

### **Younger People**

It is recognised that the age profile of HMO tenants tends to be younger than the housing market or private rented sector as a whole, predominantly because two of the main groups using this type of accommodation are students and younger people who are in receipt of Local Housing Allowance (LHA) . LHA (housing benefit for PRS tenants) is capped at a "room rate" for single

### **Actions:**

- **To use data available from partner organisations to look at rent trends in HMO accommodation (student only)**
- **To work and negotiate with landlords to prevent homelessness at an early stage.**
- **Encourage landlords to engage with Nottingham Private Rented Assistance Scheme to provide housing for those at risk of homelessness.**

people under 35, meaning the amount they receive is intended to cover the rent in shared rather than single occupancy housing.

Potential benefit: Improving the standard of accommodation therefore would benefit younger people and provide better value for money to the public purse.

Potential adverse impact: Any rent increase because of licensing could have a particular impact on young people in receipt of LHA. Their allowance is specifically based on shared accommodation or room rate however, their allowance could fall short of an increased rent, making them more vulnerable to homelessness and landlords potentially seeking “safer” tenant options.

**Other : cohesion/good relations, vulnerable children/adults**

Looked after children and vulnerable children are most unlikely to be housed in HMOs, although those leaving care may well access this type of accommodation, in which case observations relating to younger people (above) may apply. Where vulnerable children are living in HMOs they would benefit from improvements in property conditions and safety.

Improvements to the management and conditions of HMO properties, particularly in terms of ASB and poor external condition will assist an increase in cohesion and reduction in tensions between occupants of HMOs and others residing in the neighbourhood.

The evidence for the proposal and review of the current scheme, both looked complaints and service requests relating to HMOs, indicating a reduction in areas where licensing and enforcement has been in operation.

**4. Outcome(s) of equality impact assessment:**

<input checked="" type="checkbox"/>	No major change needed	<input type="checkbox"/>	Adjust the policy/proposal
<input type="checkbox"/>	Adverse impact but continue	<input type="checkbox"/>	Stop and remove the policy/proposal

**5. Arrangements for future monitoring of equality impact of this proposal / policy / service:**

The impact of licensing on households will be monitored via feedback from stakeholders or organisations representing stakeholders.  
 The impact of the scheme on the availability and security of accommodation to vulnerable can be monitored using referral data to agencies such as Housing Aid and Advice Nottingham.

**6. Approved by (manager signature) and Date sent to equality team for publishing:**

<p><b>Approving Manager:</b>                  Graham deMax, Housing Strategy and Partnerships Managers</p>	<p><b>Date sent for scrutiny: 20/08/2018</b>                  Send document or Link to:  <a href="mailto:equalityanddiversityteam@nottinghamcity.gov.uk">equalityanddiversityteam@nottinghamcity.gov.uk</a></p>
<p><b>SRO Approval: 20/08/2018</b></p>	<p><b>Date of final approval: 20/08/2018</b></p>

**Before you send your EIA to the Equality and Community Relations Team for scrutiny, have you:**

1. Read the guidance and good practice EIA's  
<http://intranet.nottinghamcity.gov.uk/media/1924/simple-guide-to-eia.doc>
2. Clearly summarised your proposal/ policy/ service to be assessed.
3. Hyperlinked to the appropriate documents.
4. Written in clear user-friendly language, free from all jargon (spelling out acronyms).
5. Included appropriate data.
6. Consulted the relevant groups or citizens or stated clearly, when this is going to happen.
7. Clearly cross-referenced your impacts with SMART actions.



<b>Subject:</b>	Housing Licensing Houses in Multiple Occupation (HMO) Revised Fee Structure 2018
<b>Corporate Director(s)/Director(s):</b>	Andrew Errington, Director of Community Protection
<b>Portfolio Holder(s):</b>	Councillor Toby Neal – Portfolio Holder for Community Protection
<b>Report author and contact details:</b>	Julie Liversidge – Operations Manager, Housing Licensing and Compliance Tel: 0115 876 2680 Email: <a href="mailto:julie.liversidge@nottinghamcity.gov.uk">julie.liversidge@nottinghamcity.gov.uk</a>
<b>Subject to call-in:</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Key Decision:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Criteria for Key Decision:</b>	
(a)	<input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
<b>and/or</b>	
(b)	Significant impact on communities living or working in two or more wards in the City <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Type of expenditure:</b>	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
<b>Total value of the decision:</b>	£6.384 million
<b>Wards affected:</b>	All
<b>Date of consultation with Portfolio Holder(s):</b>	April & August 2018
<b>Relevant Council Plan Key Theme:</b>	
Strategic Regeneration and Development	<input type="checkbox"/>
Schools	<input type="checkbox"/>
Planning and Housing	<input checked="" type="checkbox"/>
Community Services	<input type="checkbox"/>
Energy, Sustainability and Customer	<input type="checkbox"/>
Jobs, Growth and Transport	<input type="checkbox"/>
Adults, Health and Community Sector	<input type="checkbox"/>
Children, Early Intervention and Early Years	<input type="checkbox"/>
Leisure and Culture	<input type="checkbox"/>
Resources and Neighbourhood Regeneration	<input type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>	
	<p>This report recommends the adoption of a revised fee structure for both Mandatory and Additional Licensing for Houses in Multiple Occupation (HMOs) within the City of Nottingham.</p> <p>The decision is not subject to call-in as Councillor Brian Parbutt, Chair of the Overview and Scrutiny Committee, has agreed that the decision is reasonable in all the circumstances and should have dispensation from call-in, as the Council's introduction of the revised fee structure needs to be implemented in order to comply and respond to changes in law.</p>
<b>Exempt information:</b>	None.
<b>Recommendation(s):</b>	
1	<p>To adopt the revised fee structure as set out in Appendix 1, to be effective from 19 September 2018 in relation to the following:</p> <p>(i) all new and renewal applications under the Mandatory Licensing Scheme which includes applications required as a result of legislative changes to the Mandatory Scheme effective from 1<sup>st</sup> October 2018;</p> <p>(ii) all new and renewal applications under the current Additional Licensing Scheme</p>

	<p>which will be effective until 31<sup>st</sup> December 2018; and</p> <p>(iii) all new and renewal applications under the proposed new Additional Licensing Scheme due to be effective from 1 January 2019 and which forms the basis of a report for consideration by the Executive Board earlier on this agenda;</p>
2	<p>Delegate to the Director of Community Protection the authority to produce Fee and Policy Guidance, in consultation with the relevant Portfolio Holder and to make any amendments required to keep the Guidance updated, noting that the type and level of fees remain decisions which are to be approved in accordance with the Council's Constitution.</p>
3	<p>To approve the spend as detailed in sections 4.2 and 4.5 of this report from 1<sup>st</sup> October 2018 until the end of the Additional scheme – 31<sup>st</sup> December 2023 and ongoing for the Mandatory Scheme with no determined end date.</p>

## 1 **REASONS FOR RECOMMENDATIONS**

- 1.1 The Council is under a duty to licence certain types of HMOs and is permitted in law to recover the cost of the licensing process. This review of the fee structure is required as it is over 5 years since Housing Licensing fees were last reviewed and the current fees do not fully cover the operational cost of the licensing process. The proposed fee structure has been calculated to achieve maximum cost recovery for the licencing process based on the number of estimated applications likely to be received by the City Council and the activities required to support and undertake compliance and enforcement activities for that number.
- 1.2 This review of fees is also required in response to recent legislative changes and case law which now requires the introduction of a two-part fee structure.
- 1.3 Through experience of operating the current schemes, the Local Housing Authority is more accurate in its assessment of the time required for issuing HMO licences. Due to the complexity of some applications and the need for due legal process, including time for representations, appeals and enforcement activity, some applications can take up to six months from receipt to issue and in more complex cases up to 12 months.
- 1.4 It has also been necessary up to this point to dedicate resources to the administrative side of licensing mainly because of the complexity of the process for issuing licences, however, this current decision will assist with embedding a staffing structure which supports improved processing and a stronger compliance and enforcement function going forwards. The additional revenue generated by the finder's fee and less compliant fee will be used to fund new posts within the department for further investigation and enforcement work. The current staffing establishment will be maintained with the creation of the additional posts being the subject of a separate decision in due course.
- 1.5 As part of the consideration of the proposed Additional Licensing Scheme, which is an item for discussion earlier on the Executive Board's agenda, Member's will have had sight of the full outcome of the consultation exercise in relation to this Scheme. Appendix 3 to this report shows the relevant questions and responses in relation to

proposed fees which have been extracted from the full consultation results. These results showed support for the introduction of a less compliant landlord's fee, support for the discount for accreditation and the fee for extra bedrooms. These results have been used to influence the proposed fee structure subject to this decision.

1.6 Additional detail in relation to the reasons for the different elements of the fee structure are set out below as follows:

- i two part fee structure – paragraphs 2.10 & 2.11;
- ii less compliant fee and accreditation discount – paragraph 2.14;
- iii and other extra fees at paragraph 2.16.

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

2.1 The Housing Act 2004 (“the Act”) places a duty on Council's to licence certain types of Houses in Multiple Occupation (HMOs), the Act allows cost recovery associated with the licencing process.

### **Mandatory Licensing changes**

2.2 The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018, provides that the mandatory licensing of HMOs be extended to include a wider definition of properties as from the 1<sup>st</sup> October 2018. This statutory instrument was widely consulted on by central government, the consultation did not consider the level of fee to be set.

2.3 The new prescribed description includes all HMOs with 5 or more persons comprising of two or more households regardless of the number of storeys. A significant number of these properties will have been captured within the current designation of Additional Licensing, however a number of HMOs located outside of the current designated may now become licensable.

### **Pass porting of Licences**

2.4 As a result of the legislative changes and the proposed new Additional Licencing Scheme, there are a number of administrative actions that are now required to ensure properties remain licenced under the correct Scheme. The information presented to Members in paragraphs 2.5 to 2.9 is for information and intended to provide Members with the full technical effect of the changes on the Scheme and to also inform that no additional ‘fees’ on Licence Holders are being proposed to undertake this administration.

2.5 Existing licences under the current Additional Scheme which now meet the statutory definition for a HMO in the Mandatory Scheme will be ‘pass ported’ to the correct scheme of licensing. There are approximately 600 licences affected and the Licence Holders are aware that no ‘fee’ will be charged for the pass porting of the licences.

2.6 The remaining Additional Licencing Scheme licences that have a period of licence remaining referred to as ‘overhanging licences’ will be pass ported into the new proposed Scheme of Additional licensing, if the new Scheme is approved by Executive Board. These licences will

continue to remain in force until their expiration date. The Licence Holders will not be required to take any action and they will be contacted at the appropriate point during the next 5 year licence cycle regarding their renewal application.

- 2.7 There are also a number of licences due to expire on the 31<sup>st</sup> December 2018 within the current scheme of Additional Licencing, some of these licences were issued part way through the 5 year Scheme cycle. Therefore, these Licence Holders paid the full fee for a lesser term on their licences. If the new Additional Licencing Scheme is approved, then these Licence Holders may be offered a Variation to extend their licence duration in order to offer them a full five year period of licence commencing from the application 'duly made' date. These Licences will be assessed as to whether they are suitable for a Variation on a case by case basis and is subject to those Licence Holders agreeing to be bound by the revised Licence conditions.
- 2.8 Any pending or new Additional Scheme applications received in the period up to 31 December 2018 will be processed and pass ported into the newly proposed scheme of Additional licensing and subject to the new licence conditions, assuming the Scheme is approved.
- 2.9 Section 257 HMOs as a whole building will not continue to be required to licence within current Additional Licensing Scheme and the newly proposed Additional scheme if approved. The individual self-continued flats within section 257 HMOs, will be required to be as licenced under either the Selective or Mandatory licensing depending on occupation.

### **Two Part Licence Fee**

- 2.10 Recent case law and the publication of a guidance document on locally set licence fees called "Open for Business" from the Local Government Association (LGA) in June 2017', recommends that licence fees should be split into two parts; Part A (application stage) and Part B (compliance and enforcement stage).
- 2.11 Part A fee: The advice from LGA is that this fee covers all the work on the licence up to and including determining and issuing the licence. Part B fee: The advice is that this fee covers all work after the licence has been granted including inspections and compliance work and enforcement costs among other things. If no licence is issued (i.e. the application is refused), no Part B payment is required.
- 2.12 The current HMO licensing fee has been in place since 2006 and has been subject to a number of reviews see Table 4 in Appendix 1. The last major review was in 2013 and that fee has been maintained with no increases in line with inflation and/or operational demands. Appendix 1 Table 4 details a chronology of fees changes over a number of years dating back to 2006.
- 2.13 It is the Council policy to recover costs of service. The cost of the HMO licensing process has been reviewed and full cost recovery is not being achieved to support the future cost of the service if the fee is not increased.

### **Less compliant landlords and accreditation**

2.14 Licensing has identified that there are essentially three groups of landlords operating and managing HMOs within the city. The resources required to identify, assess, process and manage the application along with the determination of the licences application, compliance and enforcement for these three groups can vary considerably and this has been reflected in the proposed fee structure.

These comprise of: -

- Good Landlords, who are essentially aware of their legal responsibilities, provide properties that are of good quality that are compliant with standards and well managed. This group will proactively seek to licence during the transition period for licensing or plan for the introductions of new schemes and some of these Landlords will go on to take up accredited but not all.
- Less compliant, misinformed, unaware or accidental landlords, who operate without the proper knowledge of legislative requirements, leads to a mixed and often poor standard accommodation (particularly in relation to fire safety and management) once prompted and guided they usually comply with requirements and submit relevant documentation but this can be a long and intensive process sometimes resulting in multiple visits and enforcement activity.
- Rogue landlords, who deliberately avoid making licence application, offer a very poor standard of accommodation combined with a poor management and who put profit before safety. They will have little regard for tenant safety, welfare and pay no regard to the legal eviction procedures. Upon threat of enforcement action they will either finally make a very poor attempt to licence with the application taking many months to process or look for ways to avoid licensing such as removing tenants and sealing off rooms. Enforcement action is usually associated with this group.
- The proposed fees have been calculated using an updated Local Government Association (LGA) toolkit to ensure value for money, but also to ensure that all allowable costs are recovered. Based on running in parallel the Mandatory and Additional Schemes, the fee was calculated and based on costs for a forecast of 4,800 licences applications being received over a five year period (Mandatory is estimated to receive 3000 applications and Additional 1800 licences). The teams will continue to work together and have costs proportionally allocated across the two schemes.

2.15 It is appropriate to review the fee every year to achieve maximum cost recovery. A fee is charged for every licence application and if granted the licence can remain in force for up to 5 years. Benchmarking with other core cities has taken place and the proposed new fee is higher in comparison (Appendix 2 - Benchmarking information). However, it should be noted that not all other councils have reviewed their fee and have not yet implemented the new two part fee structure. As licensing was introduced in 2007 and licenses were granted for a period of up to 5 years, the number of HMO's which will require re-licensing will peak

over the next three years for both Schemes if continued and if the proposed new designation for Additional Licencing is approved by the Executive Board in September 2018.

2.16 Extra fees will become payable for some applications, see Appendix 1, Table 2. These extra fees will be added to part 1 or part 2 payments depending on whether they become applicable. The payments have been calculated to reflect the extra cost of intervention, administration and processing time required for some licences. The extra fees which will be applied are as follows:

- Extra Bedroom fee of £25 will be added for each bedrooms to be considered where there are ten or more in larger properties.
- Finder's fee of £150 will be added when extra interventions have to be taken to bring about the application.
- Moving between Additional Licencing Scheme and Selective Licencing Scheme, a fee will be charged at 25% of the applicable fee and is charged for application moving between Part 2 & 3 of the Act.
- Missed inspection fee - will be added when the inspection is missed by the licence holder or managers without giving prior notification.
- Extra correspondence fee will be added when extra correspondence becomes necessary.
- Extra documents fee will be added when copy documents are requested.
- Paper Applicant Form Request a fee will be charged when landlords phone up and ask for a printed copy of the application form to be posted to their correspondence address. A free online only application form is available for download and completion.
- Paper Application Processing fee will be charged when a paper application is received by the department after the 1<sup>st</sup> October 2018.
- Part 1 Housing Act 2004 Enforcement costs of £350 will be charged when enforcement action is taken and a notice is served. The cost of Part 1 action is not recoverable within the licencing fee.

### **Staffing**

2.17 The staffing resource to ensure licences are issued efficiently is in place and has now been reviewed to improve the service. There is a predicted increase in the number of applications, combined with more complex cases which has increased the demand on staffing.

2.18 The outcome of the fee modelling forecasts that the service needs 27 staff and an additional 4 enforcement officers. The current team is made up of 23 staff members of varying grades for the processing and compliance activity.

2.19 Approval to recruit four new posts as a result of the fee review will be subject to separate approval, with the recruitment exercise taking place in September 2018. All staffing costs are recovered from the licencing fee.

### **Proposed service changes**

- 2.20 Online only applications will be developed and we will look to implement them over the coming year to further assist with this efficiency of service delivery. There will be an annual fee and structure review starting in 2019 which may result in further fee changes. This proposal is also in line with the outcome of recent case law. The Council is committed to working with landlords and tenants and understands that this increase may be difficult, however, the licence standard fee is applied for licences granted for up to 5 year and, at this it would be a maximum cost of £266 annually, and this is considered comparable with other councils.
- 2.21 It should be recognised that the private rented sector market is changeable and that this may have an impact on the income and expenditure forecasts. The fee structure has been created to support accredited and good landlords with no incentives for less compliant practices. We believe it is reasonable that less compliant landlords should pay a higher fee to cover the cost of extra intervention, monitoring and enforcement activities. This was supported by the outcomes of consultation on additional licensing this year and overview of which is given in Appendix 3.

### **Refunds and Renewal Discount**

- 2.22 Previously fees for HMO licence renewal and multiple applications had a set discount from the standard licence fee, in the belief that the processing of renewal applications takes less time. In this connection, the re-licensing fee should in theory be less than that of a new application as there will be reduced set-up costs. The proposed reviewed fee has been calculated with no set up costs included as the team is already established and apart from a small number staff starting and finishing their employment, there was nothing else to consider in the main. An exit strategy cost has been included to cover staff redeployment and or redundancies should the Additional Licensing scheme come to an end.
- 2.23 Licencing applications generally take place over a five year cycle and the first tranche of mandatory licensed HMOs have now been re-licenced or are set to be re-licenced, some twice. Experience has shown that the renewal process and the process for multiple applications is in fact virtually the same as the process for a new application, there is no time saving element associated with these types of applications. For this reason it is considered that a discount for these applications will no longer be offered.
- 2.24 It is also common for the financial and management arrangements, lay out, amenities and conditions to change over time and these all need to be assessed on renewal in relation to the property and management. The general conditions of the property can also deteriorate significantly over a five-year licence term due to hard use from tenants living in multiple occupations and not as a single family unit.
- 2.25 In addition to this, the Housing and Planning Act 2016 introduced new provisions regarding fit and proper person tests, which came into effect

April 2017 and means that checks on the applicants suitability need to be repeated each time they apply for a licence.

- Licences for HMO and other rented accommodation: additional tests for fitness and satisfactory management arrangements including person associated: checks will be required to establish leave to enter or remain in the United Kingdom and is not insolvent or an undischarged bankrupt.
- Banning Orders and 'Rogues' Database. The database of rogue landlords and agents will be held by MHCLG and updated by local authorities who will need to check this when assessing fitness and satisfactory management arrangements including person associated.

2.26 It is also worth noting that an HMO "renewal" application has no separate legal status and is in effect a new licence. For this reason, it is proposed to end the discount for renewal and multiple applications. There will, however, continue to be a requirement to inspect the property and review of Houses in Multiple Occupation (HMO) licensing fees and continue with the latest implementation of the Housing and Planning Act 2016 and other legislative changes.

2.27 As the fee will now be administered and collected in two separate payments it is proposed to discontinue refunding the administration cost as the Council will have incurred processing costs and have accurately reflected these costs in the review.

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

- 3.1 Alternative charging options include having a set fee for licences or reduced fees for renewal and multiple applications. This is how the current fee structure works and is not the favoured structure for the future because it increases the complexity and cost of the fee setting and recovery process. There is a higher likelihood of error as multiple fees calculations are applicable. This has been proven to be confusing to applicants especially when multiple applications are made. This option has been in operation for a number of years and is not supported to continue.
- 3.2 The proposed level of staffing is reduced thereby reducing the need to increase fee levels. This option would reduce the service capacity to issue licences efficiently and in a timely manner. It would also restrict the amount of compliance and enforcement work which could be carried out. It would significantly limit the amount of engagement work by the Safer Housing Team resulting in a poor customer experience and reduction in the quality of housing for some citizens. This option is not supported.
- 3.3. No change and leave the fee at the current level. The licensing scheme activities should be cost neutral to the Council and this is the aim of the new proposals. This option may be welcomed by landlords, but the current fees do not cover the operational costs of the current Schemes. Cost recovery is permitted by law and it is appropriate for the fee to cover the operational costs of the schemes. This option is not supported.
- 3.4. An annual licence fee - While some Landlords would appreciate the ability to pay their fee annually, this option would increase the operational cost of the

licence fee overall as it results in more collection processing and chasing non-payment activity over the 5 year period. This option is not supported and not required by statute.

- 3.5. Not charging for extra bedroom inspections in HMOs which have 10 or more bedrooms. This option was considered and rejected as the cost and time to inspect larger HMOs can be substantial and multiple visits may be required. The cost is difficult to absorb within the standard fee and would result in smaller properties subsidising the cost for larger HMO operators. This option is not supported.

#### **4 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)**

4.1 Advice Provided by Michelle Pullen Finance Manager – Community Protection/Commercial & Operations. Byron House Maid Marion Way Nottingham NG1 6HS on the 9<sup>th</sup> August 2018.

4.2 The total cost of the joint scheme over the five years is estimated to be **£6.384m** with a licence cost average per property being calculated as **£1,330 the standard fee x 4,800 properties.**

I. The purpose of the report is to establish a new fee for both Mandatory and Additional schemes. Whilst there are 3 fees applicable – standard, accredited and non-compliant, the basis for accredited and non-compliant has been due to variations on the workings taken from standard fee. Therefore these comments are based on the standard fee.

II. The total cost is based on 4,800 applicants at the standard rate.

III. The potential income and cost for Additional if approved over the next five years is estimated to be **£2.394m** with a licence cost per property being calculated as **£1,330 the standard fee x 1,800 properties**. This cost would increase if the 2 schemes cannot have a combined workforce and an equal share of the fixed costs. Please see exec board report.

IIII. The potential income and cost for Mandatory over the next five years is estimated to be **£3.990m** with a licence cost per property being calculated as **£1,330 the standard fee x 3,000 properties**.

IV. There is risk associated with predicting income levels as the income is dependent on the number of licensable premises; this number is subject to significant churn and is currently uncertain with the change to the Mandatory definition. In brief the new Mandatory licensing definition has removed the requirement for properties to have three storeys. It now includes properties that are occupied by five or more persons forming two or more households sharing amenities regardless of the number of storeys so will include some flats and larger properties in the current additional scheme.

V. This is a self-funded scheme. There will be no gain or loss in association with this scheme. It must remain cost neutral. **Therefore there is no impact to the MTFP. This fund is ring fenced.**

4.3 The fee has been calculated by using an updated Local Government Association (LGA) toolkit to ensure value for money, but also to ensure that all allowable costs are recovered

4.4 The assumed costs included are:

- i. Staffing costs to run the scheme, these have been included at productive hours only as per the guidance and relevant staff grades for each piece of work.
- ii. Processing costs of each licence, application, checking etc. – this has been calculated using percentages for the amount of time taken.
- iii. Enforcement costs (as per recent change to legislation).
- iv. Management fees
- v. Exit costs
- vi. Overhead costs to include accommodation, IT, HR, Finance & Legal support.
- vii. Inflation factors.

In the case of calculating the non-compliant fee, enforcement costs and additional work has been factored in. The Accredited fee has been calculated by reducing the time required as less checks are needed.

4.5 The table below reflects the costs included to **establish the standard fee**.

Estimated costs to establish the standard fee based on compliance & non-compliance	Total
<b>Personnel Costs</b>	<b>5,163,085</b>
<b>Operating Costs</b>	
Enf & associated costs (only form part of the higher fee)	-
Telephony	7,020
Premises	307,308
Transport	29,800
Supplies & Services	86,428
IT Support & New IT System	205,126
Other overheads inc EHO, Legal, Finance, HR , Bus Analyst support functions	472,233
<b>Annual Operating Costs</b>	<b>1,107,915</b>
<b>One off Costs inc Exit Strategy</b>	<b>113,000</b>
<b>Total Costs</b>	<b>6,384,000</b>
<b>Total Number Of Licences</b>	<b>4,800</b>
<b>Price Per Licence (Based On Average)</b>	<b>1,330</b>

#### 4.6. Risks

There are risks to this scheme which could have an impact on the financial business model. An example of some of the risks that could impact on the schemes financial viability and would require a resources review to mitigate are:

- i. Level of applications vary. The housing market is in continual flux and remains unpredictable.

- ii. Landlords may gain accreditation in excess of the prediction. Accredited landlords could receive a reduction of £340. Significant changes to accreditation numbers will affect costs and income. Likewise, the assumption of non-compliant landlords may change affecting the predicted income levels which may affect enforcement activities.
- iii. Enforcement fails to bring in expected number of HMO's into Licensing.
- iv. The realities of staffing and difficulties in recruiting and retaining qualified staff
- v. If operational activity identifies unexpected qualities of property (better or worse) which would mean staffing balance or costs are different to those that are anticipated.
- vi. Complex cases not consistent with the costing model considerations
- vii. If there is any legislative, guidance changes and/or case law rulings including legal challenge (judicial review and increased appeals)
- viii. Any other changes to service delivery which is impacted by issues for example, IT, accreditation providers, staffing, accommodation etc, it may be necessary to amend the business model
- ix. If the renewal of the additional scheme is not agreed, there will need to be a new review and calculation of the fees for Mandatory.

4.7 The valuation and sensitivity of risks above currently cannot be quantified however; these will be developed as the scheme progresses. During this time the following needs to be in place to ensure the early warning of risks and the ability to undertake corrective action mitigating any financial impact to the organisation:

- i. Robust performance monitoring frameworks for both operational and financial targets.
- ii. Staffing flexibility set up to be able to align to activity levels.
- iii. The business model includes full staffing exit costs for the additional scheme only (as referred to above).

## **5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)**

5.1 Advice Provided by Connie Green Solicitor, Planning and Environment Team Legal Services, Nottingham City Council, Loxley House, Station Street, Nottingham, NG2 3NG on the 12 August 2018.

The decisions that are being made by individual Councils in the area of fee setting are facing increased scrutiny from businesses, the public and in the media. Therefore it is essential that proposed fee structure is set in a legally robust and transparent manner. Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme. Councils must not use fees to make a profit.

Part 2 of the Housing Act 2004 (the “2004 Act”) makes provision for houses in multiple occupation (HMOs) to be licenced by local authorities. By section 63 (3), (7), 2004 Act, the authority may require a licence application to be accompanied by a fee fixed by the authority. When fixing the level of the fee, the authority may take into account the costs incurred in carrying out their functions under the 2004 Act.

The revised fee structure now proposed to Executive Board has been developed following the Local Government Associations (“LGA”) guidance on locally set licence fees. This guidance aims to help councils understand the full breadth of issues that should be considered when setting local licence fees in order to meet legal obligations and provide the necessary reassurances to local people, businesses and other stakeholders. It does not contain a fees calculator because this assumes a uniformity of service design and associated costs, when it is vital that councils are free to design the service that best serves the needs of their community and recover costs accordingly. Locally set fees are a vital means of ensuring both that full costs can be recovered by the council, reducing the risk of a subsidy from local tax payers.

Fees should be broadly cost neutral in budgetary terms, so that, over the lifespan of the licence, the budget should balance. Those benefitting from the activities permitted by the various licences should not, so far as there is discretion to do so, be subsidised by the general fund. To ensure that fees remain reasonable and proportionate it is necessary to establish a regular and robust review process which should include scrutiny by Members. The fee structure now proposed also takes into account the outcome of recent case law and the need to introduce a two part licence fee.

## **6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE)**

6.1 Not applicable.

## **7 SOCIAL VALUE CONSIDERATIONS**

7.1 The licensing of HMOs is part of the Council’s overall strategic approach to housing and is a key priority for the City. By tackling the problem properties and raising standards in HMO properties, it will help to achieve a number of positive outcomes in terms of regeneration, health and wellbeing, and community safety, which are all major priorities for the city. This will help to deliver improved outcomes for citizens.

7.2 The Council needs to recover the costs which arise from delivering this service. It is through the collection of fees that the Council is able to finance its both the statutory and Additional Scheme requirements.

## **8 REGARD TO THE NHS CONSTITUTION**

- 8.1 The NHS Constitution has as one of its guiding principles that the NHS will work across organisational boundaries. It says: “The NHS is committed to working jointly with other local authority services, other public sector organisations and a wide range of private and voluntary sector organisations to provide and deliver improvements in health and wellbeing”. The Council’s approach to housing also follows this principle, seeking to work with a range of other services to improve citizens’ lives, not least their health and wellbeing. The licensing of HMOs brings improved housing conditions which in turn can have a positive impact on health and wellbeing which has been demonstrated both nationally and locally.
- 8.2 The City’s Health and Wellbeing Strategy has “Healthy Environment” as one of its four main priorities. Within this there is the priority action “Housing will maximise the benefit and minimise the risk to health of Nottingham’s citizens”. The proposal for selective licensing fits very clearly with this action.
- 8.3 As stated in paragraph 7.2 above, it is the collection of fees for licences that enables the Council to deliver the service and achieve the outcomes stated above.

## **9 EQUALITY IMPACT ASSESSMENT (EIA)**

- 9.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because:  
(Please explain why an EIA is not necessary)

Yes

Attached as Appendix 4, and due regard will be given to any implications identified in it.

## **10 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)**

- 10.1 The Nottingham City Council calculation model. The fee has been calculated using a bespoke spread sheet which is a streamlined version of the original toolkit created by the Local Government Association (LGA) in 2006 (used previously for the selective, additional and mandatory licensing) and stands up to an assessment of value for money. This spread sheet calculates the “best guess estimate” as referred to within “Open for Business” and uses suggested costs given by the LGA in their June 2017 publication ‘Open for Business: LGA Guidance on locally set fees’ and is based on the number of licensable houses.
- 10.2 The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018  
<http://www.legislation.gov.uk/ukxi/2018/221/contents/made>

## **11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT**

- 11.1 Open for business: LGA guidance on locally set license fees  
<https://local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>
- 11.2 The Housing Act 2004 (“the Act”)  
<https://www.legislation.gov.uk/ukpga/2004/34/contents>
- 11.3 The Housing and Planning Act 2016  
<http://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>

## Housing Licensing – Mandatory and Additional Fee Structure

This fee structure has been reviewed to achieve the maximum cost recovery with no profit. The Local Government Association (LGA) guidance on locally set licence fees to review and makes these proposals for the revised fee structure. In setting the fees outlined below an assessment of the time taken to process HMO licences, related overheads and other activities have been considered in accordance with the fee calculation model. More detailed guidance will be made available for landlords in a Guidance and Policy Document.

**Table 1 – Proposed Application Fee**

Licence Fees For Mandatory & Additional		
Description	Comments	Fee
<b>Standard</b>	<ul style="list-style-type: none"> <li>• For non-accredited landlords</li> <li>• application fee up to 9 bedrooms</li> </ul>	<b>1<sup>st</sup> Payment £890</b>  <b>2<sup>nd</sup> Payment £440</b>  <b>Total £1330</b>
<b>Less Compliant</b>	<ul style="list-style-type: none"> <li>• For non-accredited landlords</li> <li>• application fee up to 9 bedrooms</li> </ul>	<b>1<sup>st</sup> Payment £890</b>  <b>2<sup>nd</sup> Payment £830</b>  <b>Total £1720</b>
<b>Accredited</b>	<ul style="list-style-type: none"> <li>• The proposed licence holder is accredited with the Nottingham Standard (Either Unipol or Dash)</li> <li>• application fee up to 9 bedrooms</li> </ul>	<b>1<sup>st</sup> Payment £615</b>  <b>2<sup>nd</sup> Payment £375</b>  <b>Total £990</b>

## Table 2 – Proposed Extra Fees

Extra fees will become payable during licence application process if any of the criteria detailed in the table below is met. These extra fees will be collected in addition to the 1<sup>st</sup> & 2<sup>nd</sup> part payment. The application will not be considered duly made until all extra fees have been paid with the 1<sup>st</sup> part payment or shall be payable on request.

Please note the fees in Table 2 are non-refundable

Extra Fee`s Payable		
Description	Comments	Fee
Extra Bedrooms Fee	<p>When an HMO has 10 bedrooms or more, an extra fee is applicable per bedroom.</p> <p><b>Applicable in addition to the 1st part payment in Table 1 and shall be payable on request.</b></p>	<b>£25</b>
Finder's Fee	<p>The finder's fee is applied where the Council has to do extra administrative and/or investigation work to identify an unlicensed HMO and bring it into the licensing regime.</p> <p>The application will not be processed until all fees have been paid in full.</p> <p>In accordance with the Council's Enforcement Policy, it is likely that enforcement action will be considered at this stage if there is evidence to prove operators have failed to licence a property operating as a HMO.</p> <p><b>Applicable in addition to the 1st part payment in Table 1 and shall be payable on request.</b></p>	<b>£150</b>
Fee for moving between mandatory / additional licencing (Part 2 of the Act) to selective licencing (Part 3 of the Act) or vice versa	<p>This fee is to recovery costs associated with the processing of a licence which will be issued under a different Part of the Housing Act 2004. Any new licence that is issued will run to same expiry date of the earlier licence.</p> <p>Please note – no fee will be payable for changes between mandatory / additional licencing, as these are under the same part of the Act (Part 2).</p> <p><b>Applicable in addition to the 1st part payment in Table 1 and shall be payable on request.</b></p>	<b>25% of the appropriate application fee</b>

Missed inspections	<p>Failure to attend an agreed inspection a charge shall be levied</p> <p><b>This fee shall be payable on request.</b></p>	<b>£50</b>
Extra Correspondence	<p>Where there is a requirement to enter into extra correspondence over and above the standard licensing process.</p> <p><b>This fee shall be payable on request.</b></p>	<b>£30</b>
Extra copy documentation	<p>Where a request is made for each duplicate/copy documents. The request will not be processed until this additional fee has been paid.</p> <p><b>This fee shall be payable on request.</b></p>	<b>£30</b>
Paper Application Form Request	<p>Paper application forms will remain available on request, a printed application forms will be printed and posted to a UK postal address a charge of £35 shall be required for each form.</p> <p><b>Please note that</b> the application form is available free of charge on the Council website for download and printing or complete online.</p> <p><b>This fee shall be payable on request.</b></p>	<b>£35</b>
Paper Application Form Processing	<p>A charge of £65 shall be applied for each paper application submitted to cover the extra manual cost of processing.</p> <p><b>This fee shall be payable on request.</b></p>	<b>£65</b>
Part 1 Housing Act 2004	<p>Not all costs can be recovered from the licence fee.</p> <p>Under Part 1 of the Housing Act 2004 (section 49) the Council may charge for relevant costs linked to enforcement work.</p> <p><b>Please note that</b> when an invoice is issued, this action becomes a local land charge registered against the Property.</p> <p><b>This fee shall be payable on request.</b></p>	<b>£350</b>
	<p><b>Please note that no fee payments made by Cheques or Bankers Cheques will be accepted after the 31<sup>st</sup> December 2018.</b></p>	

**Table 3 - Existing & Proposed Licence Fee Comparison**

Existing Average fee for NEW Licences	<b>£ 910</b>
Proposed Average Fee for NEW Licences	<b>£1330</b>

**Table 4 - Previous Fee by Date & Year of Change**

<b>Dates</b>	<b>Other information</b>	<b>Fee (£)</b>
January 2014 - now	New licence 1 <sup>st</sup> application	<b>910</b>
	New licence subsequent application*	<b>870</b>
	Re-licence 1 <sup>st</sup> application	<b>830</b>
	Re-licence subsequent application*	<b>790</b>
Additional fees already charged with no change	<b>Finder's Fee £150</b> Charged when landlords or agents do not come forward voluntarily to licence their houses <b>Reminder letters £30</b> Charge per letter The fee required for 1 <sup>st</sup> applications will be that applicable at the time of application. The re – licence fee will be the fee which will be applicable on the date of expiry of the existing licence and not at the time of the application. If applications are made late the fee due will be the fee applicable at the time the application is made.	
Other fee conditions		
March 2013 - 2014	New licence 1 <sup>st</sup> application	<b>980</b>
	New licence subsequent application*	<b>930</b>
	Re-licence 1 <sup>st</sup> application	<b>925</b>
	Re-licence subsequent application*	<b>875</b>
Sept 2009 – 2013	1 <sup>st</sup> application	<b>640</b>
Sept 2009 – now	Subsequent applications *	<b>590</b>
Mar 2007 – Sept 2009	1 <sup>st</sup> application	<b>600</b>
	Subsequent applications*	<b>540</b>
April 2006 – Mar 2007	1 <sup>st</sup> application full fee	<b>340</b>
Additional fees	<b>Finder's Fee £150</b> Charged when landlords or agents do not come forward voluntarily to licence their houses  <b>Reminder letters £30</b> Charge per letter	

**Table 5 - Variations to existing licences:**

Once a HMO licence has been granted and issued, the following variations can be applied for, which no additional fees are charged.

**Note:** A licence cannot be transferred to anyone else. If the licence holder no longer wishes to hold the HMO licence, they must notify the local authority who will revoke the licence and inform all interested parties.

<b>Proposed Licence Variation</b>	<b>Variation Application Fee</b>
Change of address details of any existing licence holder, manager, owner, mortgagor, freeholder, leaseholder etc.	<b>No fee</b>
Change of mortgagor, owner, freeholder, and leaseholder (unless they are also the licence holder or manager)	<b>No fee</b>
Reduction in the number of maximum occupiers and/or households for licensing purposes	<b>No fee</b>
Variation of licence instigated by the council	<b>No fee</b>
Change of manager (unless they are also the licence holder)	<b>No fee</b>
Increase in the number of maximum occupiers and/or households for licensing purposes, through increasing the number of habitable rooms, change in room sizes, and/or amenity provision, change of condition  *Please note Planning permission may also be required for an increase in numbers of occupiers  **Building Control approval may also be needed for any property alterations or improvements	<b>No fee</b>

## **Refunds Policy - relating to Licence Fee**

Applicants will be entitled to a refund of licence fee payments in the following situations:

- on review of an application it is decided that the property does not need a license at the time of application (for example, it falls under one of the exemptions);
- a duplicate application is made.

Refunds will not be provided in the following situations:

- the property needs to be licensed at the time of application;
- the property is subsequently sold at any point during the application process;
- the Council refuses the application and does not grant a licence;
- the application is withdrawn at any point during the application process;
- the Council revokes (takes away) the licence;
- the Council varies the licence and reduces the amount of time it remains operationally valid;
- the property is refused planning permission.

The fees are not connected to the length of a licence. If a licence is no longer required and the licence holder must requests a revocation to cancel the licence before it expires, the Council cannot give a refund for any unused time.

**Benchmarking Exercise**

The table below sets out the results of a housing licence benchmarking exercise with other Core Cities which was completed in April 2018.

This table shows that the proposed new licence fee for Nottingham is comparable to other core cities who have reviewed their fee in the last few of years. The column titled 'Part A & B applied' shows Council's which have introduced a two part licencing fee.

<b>Local Authority</b>	<b>Fee</b>	<b>Date Licence Fee Set</b>	<b>Part A &amp; B applied</b>
Liverpool	988	Feb 2018	Yes
Manchester	971	2018	No
Newcastle	843	2016	No
Leeds	1,350	April 2017	No
Sheffield	750	2012	No
Nottingham	1,350 **	2018	Yes
Birmingham	1,150	2012	No
Bristol	1,350	April 2016	No
<b>Average</b>	<b>1,094</b>		
<b>Third Quartile</b>	<b>1,350</b>		

**\*Core Cities only**

**\*\*This was the proposed fee at the time of benchmarking**

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### Additional Licensing Survey Results – The Fee Questions 1<sup>st</sup> May 2018 to the 20<sup>th</sup> July 2018

Extracted below are the questions and results on licence fees which were contained within the recent formal consultation on a new Additional Licensing Scheme for Nottingham City. The full consultation results are contained within a report to the Executive Board which will also be considered at the Board's September 2018 meeting.

#### Question 6: How strongly do you agree or disagree that accredited landlords who pay a lower fee?

	All respondents	%
Strongly Agree	123	25.79%
Agree	149	31.24%
Neither	95	19.92%
Disagree	50	10.48%
Strongly Disagree	56	11.74%
Blank	4	0.84%
Total	477	100.00%

	% of respondents completing survey as:		
	Landlords	Tenants	Residents
Strongly Agree or Agree	50.53%	50.00%	56.50%
Disagree or Strongly Disagree	35.79%	19.00%	27.37%

- A majority of respondents (57%) Strongly Agree or Agree that accredited landlords should pay a lower fee.
- Strongly Agree was the most frequent response for those completing the survey as tenants or landlords.

#### Question 7: How strongly do you agree or disagree that consistently non-complaint landlords should pay a higher fee?

	All respondents	%
Strongly Agree	259	54.30%
Agree	96	20.13%
Neither	44	9.22%
Disagree	34	7.13%
Strongly Disagree	41	8.60%
Blank	3	0.63%
Total	477	100.00%

	% of respondents completing survey as:		
	Landlords	Tenants	Residents
Strongly Agree or Agree	48.42%	73.36%	82.50%
Disagree or Strongly Disagree	29.47%	16.36%	9.50%

- A majority of respondents (74%) Strongly Agree or Agree that consistent non-compliant landlords should pay a higher fee.
- Strongly Agree was the most frequent response for those completing the survey as landlords, tenants or residents

**Question 8: How strongly do you agree or disagree that properties over 9 bedrooms should have an additional charge for 5 extra bedrooms?**

	All respondents	%
Strongly Agree	175	36.69%
Agree	108	22.64%
Neither	85	17.82%
Disagree	50	10.48%
Strongly Disagree	55	11.53%
Blank	4	0.84%
Total	477	100.00%

	% of respondents completing survey as:		
	Landlords	Tenants	Residents
Strongly Agree or Agree	36.84%	50.91%	74.00%
Disagree or Strongly Disagree	41.05%	26.37%	11.00%

- A majority of respondents (59%) Strongly Agree or Agree that properties with over 9 bedroom should pay a charge for 5 bedrooms as per the proposal.
- Strongly Agree was the most frequent response for those completing the survey as landlords, tenants or residents.

## Equality Impact Assessment Form

[screentip-sectionA](#)

### 1. Document Control

#### 1. Control Details

Title:	Housing Licensing Houses in Multiple Occupation (HMO) Revised Fee Structure 2018
Author (assigned to Pentana):	Julie Liversidge – Operations Manager
Director:	Andy Vaughan CORPORATE DIRECTOR OF COMMERCIAL & OPERATIONS Andrew Errington DIRECTOR COMMUNITY PROTECTION
Department:	Commercial & Operations
Service Area:	Community Protection: Environmental Health Safer Housing
Contact details:	011587 62680
Strategic Budget EIA: Y/N	N
Exempt from publication Y/N	N

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#### 2. Document Amendment Record

Version	Author	Date	Approved
1	Julie Liversidge	03/08/18	
2	Connie Green	09/08/18	20/08/18 A Djan

#### 3. Contributors/Reviewers

Name	Position	Date

**4. Glossary of Terms**

Term	Description

**screeintip-sectionB**

**2. Assessment**

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**1. Brief description of proposal / policy / service being assessed**

Houses in Multiple Occupation (HMOs) licensing is a power available to Local Housing Authorities (LHA's) within the provisions of the Housing Act 2004 ("HA 2004"). HA 2004 Part 2 sets out the general duties on LHAs and their powers in relation to HMO licensing functions. LHAs are currently required by Order to licence:

- HMOs which are 3 storeys and above and are occupied by at least 5 persons who constitute more than one household. This is known as 'Mandatory Licensing'.
- As from the 1<sup>st</sup> October 2018, the prescribed description for Mandatory Licensing is to be amended and the criteria for 3 storeys will be removed.
- HA 2004 Section 56 provides that an LHA may license other categories of HMOs designated by it which is known as 'Additional Licensing'.

Nottingham City Council as the LHA operates the following schemes:

- Mandatory Licensing in since 2006;
- Additional Licensing since January 2014; and

- more recently as from 1<sup>st</sup> August 2018 a Selective Licensing Scheme which licences private rented properties.

These Schemes have been generally successful, however, the licence fee structure has not been reviewed in 5 years and this review is now necessary as the LHA looks to improve the service and ensure it's sustainable in the future. As part of the formal consultation relating to the renewed Additional Licensing Scheme, due to be effective in January 2019, evidence gathering and analysis regarding fee levels were undertaken. The proposed renewed Additional Licensing Scheme will be the subject of a separate Executive Board report in September 2018 and will have its own EIA as it is likely that there will be issues relating to the new Scheme that are not relevant for the purposes of this decision.

This EIA examines the impact of the proposed revised fee structure for both the current Mandatory and Additional Schemes and any applications under the newly defined Mandatory Scheme as from 1 October 2018 and the proposed new Additional Scheme planned to come into effect on 1 January 2019.

The decision proposes that all HMOs in both Schemes will be required to have a licence and that Landlords will be required to apply to the LHA. The average proposed fee for a licence will be £1330. This fee is based on the costs of administration and operation of the Scheme including compliance and enforcement activities.

The revised fee structure which is the subject of this decision can be found at Appendix 2.

The LHA is committed to using its powers under the HA 2004 because it provides the following benefits:

- An opportunity to continue to influence higher standards of HMO accommodation and to ensure effective management through more extensive control; and
- Higher levels of citizen satisfaction with private rented sector accommodation within the City.

**[screentip-sectionC](#)**

**2. Information used to analyse the effects on equality:**

- Census 2011 and Household Projections;
- Issues and indications arising from full consultation on the previous scheme of Additional Licensing (2013-18).

- Ethnicity monitoring via Additional Licensing applications.
- Building Research Establishment (BRE) 2016 [www.nottinghaminsight.org.uk/f/183870](http://www.nottinghaminsight.org.uk/f/183870)

References

1. Housing Act (2004) Section 56 - <https://www.legislation.gov.uk/ukpga/2004/34/part/2/crossheading/designation-of-additional-licensing>

**3. Impacts and Actions:**

<u><a href="#">screentip-sectionD</a></u>	Could particularly benefit X	May adversely impact X
People from different ethnic groups.	<input checked="" type="checkbox"/>	X
Men	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Women	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Trans	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disabled people or carers.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy/ Maternity	<input checked="" type="checkbox"/>	<input type="checkbox"/>
People of different faiths/ beliefs and those with none.	<input checked="" type="checkbox"/>	X
Lesbian, gay or bisexual people.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Older	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Younger	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other (e.g. marriage/ civil partnership, looked after children, cohesion/ good relations, vulnerable children/ adults).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b><i>Please underline the group(s) /issue more adversely affected or which benefits.</i></b>		

<p style="text-align: right;"><a href="#"><u>screentip-sectionE</u></a></p> <p><b>How different groups could be affected</b> (Summary of impacts)</p>	<p style="text-align: right;"><a href="#"><u>screentip-sectionF</u></a></p> <p><b>Details of actions to reduce negative or increase positive impact</b> (or why action isn't possible)</p>
<p>The most significant difference in impact will be between the two groups that licensing directly affects most which are Tenants and Landlords. To a lesser though still significant extent it will also impact members of the broader communities that have a high number of HMOs and are covered by the designation.</p> <p>As groups, HMO tenants and HMO Landlords are diverse and consideration must be given to whether any potential benefit or adverse impact of the scheme relates to the Tenant/Landlord/Community Cohort or to a particular equality strand represented within them.</p> <p>The positive impact of the scheme are improved property conditions, safety, tenancy management, community relations and reduced ASB which can be continually improved via the monitoring and enforcement action against non-compliant landlords.</p> <p><b>People from different ethnic groups</b></p> <p>It is considered that overall the benefits of licensing outweigh the potential disadvantages. The schemes aim to have a positive impact on disadvantaged groups who are over-represented in HMO accommodation and wider communities that are covered in the additional designation and city wide mandatory licensing.</p> <p>The population of those living in the City's Private Rented Sector comprises people from a range of different BME communities and mapping shows there is a coincidence of citizens from BME communities with higher levels of private rented sector property and HMOs. The tenant profile of HMOs is likely to be a less diverse than</p>	<p><b>Action:</b></p> <ul style="list-style-type: none"> <li>Ongoing liaison and engagement directly with and with groups representing landlords, tenants and therein their component communities and a range of communications and marketing works will be undertaken to ensure engagement with a broad range of stakeholders. Issues of communication and understanding in respect of learning from the existing scheme's and for any new scheme will be factored into operational delivery.</li> </ul> <p><b>Action:</b></p> <ul style="list-style-type: none"> <li>Continue to collect bi-annual ethnicity data from landlords applying to the scheme, with analysis of any change in dynamic or BME communities entering or exiting this market.</li> <li>Increased engagement with landlords from communities of interest via dedicated resource in the Safer Housing Team.</li> <li>Continue to make information and good practice available in a range of accessible and easy read formats.</li> </ul>

that of the PRS overall, however it is known that in certain areas of the City HMOs accommodated significant proportion of certain BME groups, particularly single, economic migrants such as those from Eastern European countries. Overcrowding can be an issue in some areas and illegal conversions of properties particularly affect new and emerging communities, as do poor or improper tenancy management.

**Potential benefit:** Licensing brings improved quality and safety of accommodation for all tenants including BME tenants living in HMOs and assists in the identification and removal of landlords who cause negative impact to vulnerable BME or new communities via substandard or illegal accommodation.

**Potential adverse impact:**  
**(a) Landlords**

During the formal consultation on the current Scheme of Additional Licensing in 2013, it was put forward that the Scheme would disproportionately and adversely impact the south Asian community. Many HMO landlords are of south Asian (Indian and Pakistani heritage) and residential property investment is a key strand of the named communities' financial interests, therefore any adverse financial impact of the scheme on landlords would be disproportionately felt.

There is limited data available on landlord ethnicity, however of that collected (105 volunteered responses via the licensing application process), 40% were White British/Irish, 47% were Asian and 13% were Black or Other Ethnicity. Of the Asian landlords, 62% were Asian Pakistani, meaning this particular ethnicity makes up 35% of the total respondents.

It is acknowledged that this is a complex issue and that support will be required to ensure that different communities understand what licensing means for them, what is expected of landlords and that they are able to comply with the requirements.

**Action:** a landlord liaison officer has been employed to try to reach diverse landlord communities.

**Action:** licensing works closely with the Community Cohesion Team to

**(b)Tenants**

Concern has been raised that licensing will cause an increase in rents as a result of the increased landlord expenditure on the licence and the costs of complying with licensing conditions. Though the proposed designation for Additional covers areas of the city with higher proportions of BME households, there is no evidence to suggest that HMOs are disproportionately occupied by BME households, in fact based on the main groups-known to use HMO accommodation, it is likely that overall the concentration of BME households is less than in the PRS overall.

Mandatory Licensing is a national government scheme and covers the whole of the city.

It is understood that many EU citizens of Eastern European and African descent are accommodated in HMOs that would be subject to additional and mandatory licensing, as well as those from other new or emerging communities, refugees and asylum seekers. Such households could be negatively impacted or displaced by an increase in rents whilst not being eligible for welfare assistance. Landlords could limit themselves to “safer” options in terms of rental security reducing the availability of accommodation to these groups or potentially withdraw from the sector altogether limiting accommodation to all who may want or need to use it.

Overall, the additional cost to landlords is considered to be small as a proportion of rental income, especially across the term of the licence which lasts for up to five years. Therefore the licence fee equates to approximately a few pounds per week. It is however acknowledged that those with larger portfolios will need to pay for multiple licences.

It should be noted that a reduced fee is proposed for those landlords who are accredited under the Nottingham Standard or contributing schemes.

Less compliant landlords will pay a higher fee to cover the cost of the extra monitoring and enforcement that is usually associated with this

raise awareness of tenants and landlords

- To work with partner organisations and departments to monitor any increase in people from HMOs making presentations or seeking advice due to impact of licensing.
- To work and negotiate with landlords to prevent homelessness at an early stage.
- Encourage landlords to engage with Nottingham Private Rented Assistance Scheme to provide housing for those at risk of homelessness.

group of properties and landlords.

There is a risk however that the costs to landlords associated with Licensing will be passed on to tenants, however there is no evidence to suggest that increases in HMO rents to date are driven exclusively by the introduction of the scheme . Increases in HMO rents were observed after the introduction of licensing however, they were also seen in cities – notably with similar student populations – that did not have a licensing scheme in place.

The risk of rent increases is therefore one that that council is aware of, but one which is based on speculation.

The Council does not consider that standards of accommodation should be compromised in the interest of greater affordability or preservation of margins and believe that the standards required by licensing are ones that landlords should already be meeting.

**Disabled People or carers**

It is acknowledged that this sector maybe home to a number of people with learning disabilities or mental health issues, particularly as it is known to cater to younger and/or single household in receipt of local housing allowance.

Tenants with health issues are also much more likely to be affected by problems with damp and housing disrepair issues and may face problems with communication and getting repairs done quickly.

**Potential benefit:** improvement in the property standards and tenancy management will have a positive impact on the health and security of tenants, something of particular benefit to those who may be vulnerable due to mental health or learning needs.

**People of different faiths/ beliefs and those with none.**

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Issues or links between particular BME groups and the impacts of licensing could also apply to this equality strand.

Having identified that many landlords are from South Asian, or more specifically Pakistani, backgrounds, it should be noted that the Muslim community may not receive, for religious reasons, 'interest' from investments and therefore property is a preferred investment for many, hence this makes this community sensitive to any matters that could affect property prices or yields.

As previously, the Council does not consider that standards of accommodation should be compromised in the interest of greater affordability or preservation of margins and believe that the standards required by licensing are ones that landlords should already be meeting.

**Younger**

It is recognised that the age profile of HMO tenants are younger than the housing market or PRS market as a whole predominantly because two of the main groups using this type of accommodation are students and young people who are in receipt of Local Housing Allowance (LHA). LHA (housing benefit for PRS tenants) is capped at a "room rate" for single people under 35, meaning the amount they receive is intended to cover the rent in shared rather than single occupancy housing.

**Potential benefit:** Improving the standard of rented accommodation by ensuring through licensing and compliance that they are safe and well managed by fit and proper persons. Monitor rents and investigating any excessive rent increases or threats of illegal eviction. Therefore this type of accommodation would benefit younger people who could not afford to live alone and provides better value for money to the public purse.

**Potential adverse impact:** Any rent increase because of licensing could have a particular impact on young people in receipt of local housing allowance. Their allowance is specifically based on shared accommodation or room rate. However, their allowance could fall short

**Actions:**

- To use data available from partner organisations to look at rent trends in HMO accommodation (student only)
- To work and negotiate with landlords to prevent homelessness at an early stage.
- Encourage landlords to engage with Nottingham Private Rented Assistance Scheme to provide housing for those at risk of homelessness.

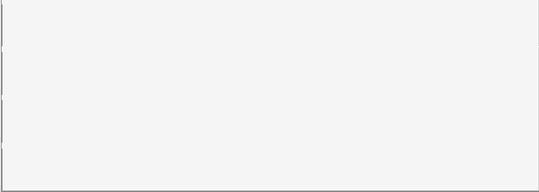
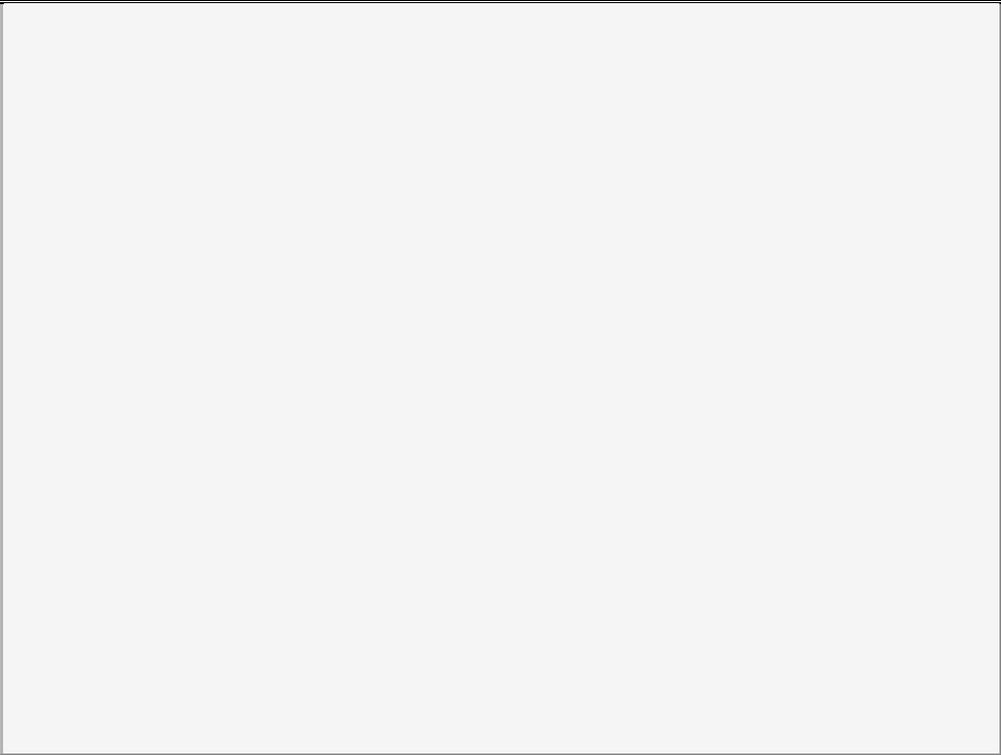
of an increased in rent, making them more vulnerable to eviction and homelessness and landlords more likely to seek out “safer” tenant/rent options.

**Other: cohesion/ good relations, vulnerable children/ adults.**

Looked after children and vulnerable children are most unlikely to be housed in HMOs, although those leaving care may well access this type of accommodation, in which case observations relating to younger people (above) may apply. Where vulnerable children are living in HMOs they would benefit from improvements in property conditions and safety.

Improvements to the management and conditions of HMO properties, particularly in terms of ASB and poor external condition will assist an increase in cohesion and reduction in tensions between occupants of HMOs and others residing in the neighbourhood.

The evidence for the proposal and review of the current scheme, both looked complaints and service requests relating to HMOs, indicating a reduction in areas where licensing and enforcement has been in operation.



**4. Outcome(s) of equality impact assessment:**

<input checked="" type="checkbox"/>	No major change needed	<input type="checkbox"/>	Adjust the policy/proposal
<input type="checkbox"/>	Adverse impact but continue	<input type="checkbox"/>	Stop and remove the policy/proposal

**5. Arrangements for future monitoring of equality impact of this proposal / policy / service:**

The impact of licensing on households will be monitored via feedback from stakeholders or organisations representing stakeholders.  
 The impact of the scheme on the availability and security of accommodation to vulnerable can be monitored using referral data to agencies such as Housing Aid and Advice Nottingham.

**6. Approved by (manager signature) and Date sent to equality team for publishing:**

<p><b>Approving Manager:</b>                  Julie Liversidge – Operations Manager Housing Licensing &amp; Compliance <a href="mailto:julie.liversidge@nottinghamcity.gov.uk">julie.liversidge@nottinghamcity.gov.uk</a>, 0115 8762680</p> <p>The assessment must be approved by the manager responsible for the service/proposal. Include a contact tel &amp; email to allow citizen/stakeholder feedback on proposals.</p>	<p><b>Date sent for scrutiny: 20/08/2018</b>                  Send document or Link to: <a href="mailto:equalityanddiversityteam@nottinghamcity.gov.uk">equalityanddiversityteam@nottinghamcity.gov.uk</a></p>
<p><b>SRO Approval: 03/08/18</b></p>	<p><b>Date of final approval: 20/08/18</b></p>

**Before you send your EIA to the Equality and Community Relations Team for scrutiny, have you:**

1. Read the guidance and good practice EIA's <http://intranet.nottinghamcity.gov.uk/media/1924/simple-guide-to-eia.doc>
2. Clearly summarised your proposal/ policy/ service to be assessed.
3. Hyperlinked to the appropriate documents.

4. Written in clear user-friendly language, free from all jargon (spelling out acronyms).
5. Included appropriate data.
6. Consulted the relevant groups or citizens or stated clearly, when this is going to happen.
7. Clearly cross-referenced your impacts with SMART actions.

<b>Subject:</b>	Nottingham Local List Adoption
<b>Corporate Director(s)/Director(s):</b>	<b>Chris Henning, Corporate Director of Development and Growth Paul Seddon, Chief Planner</b>
<b>Portfolio Holder(s):</b>	Cllr Jane Urquhart – Portfolio Holder for Housing and Planning
<b>Report author and contact details:</b>	Alice Ullathorne <a href="mailto:alice.ullathorne@nottinghamcity.gov.uk">alice.ullathorne@nottinghamcity.gov.uk</a> 01158761993
<b>Subject to call-in:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Key Decision:</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Criteria for Key Decision:</b>	
(a) <input type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision	
<b>and/or</b>	
(b)    Significant impact on communities living or working in two or more wards in the City <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Type of expenditure:</b> <input type="checkbox"/> Revenue <input type="checkbox"/> Capital	
<b>Total value of the decision: Nil value</b>	
<b>Wards affected: All</b>	
<b>Date of consultation with Portfolio Holder(s): 16/04/2018</b>	
<b>Relevant Council Plan Key Theme:</b>	
Strategic Regeneration and Development	<input type="checkbox"/>
Schools	<input type="checkbox"/>
Planning and Housing	<input checked="" type="checkbox"/>
Community Services	<input type="checkbox"/>
Energy, Sustainability and Customer	<input type="checkbox"/>
Jobs, Growth and Transport	<input type="checkbox"/>
Adults, Health and Community Sector	<input type="checkbox"/>
Children, Early Intervention and Early Years	<input type="checkbox"/>
Leisure and Culture	<input type="checkbox"/>
Resources and Neighbourhood Regeneration	<input type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>	
<p>This report sets out the proposal for the adoption of a Local List of Heritage Assets in Nottingham and a mechanism for due consideration of applications for demolition of some historic buildings on the list through Article 4 Directions. The Local List is an opportunity for citizens from all communities to seek recognition of heritage assets, boosting pride and respect in neighbourhoods throughout the city. It will also enable due weight to be given to the consideration of local heritage value within the planning process due to those assets on the list having undergone a rigorous and fair selection process.</p> <p>Planning Committee has been consulted during the development of these proposals, though their adoption is an Executive function.</p>	
<b>Exempt information: State 'None' or complete the following</b>	
None.	
<b>Recommendation(s):</b>	
<b>1</b> To adopt the Local List Criteria and Selection Process outlined in Appendix 1	
<b>2</b> That in the case of a building being included on the Local List which is neither located in a Conservation Area nor suitable for a National Designation, the Portfolio Holder for Housing and Planning shall also consider authorising an Article 4 Direction to remove permitted development rights for the demolition of that building.	

## **1 REASONS FOR RECOMMENDATIONS**

- 1.1 Paragraph 197 of the National Planning Policy Framework 2018 requires the Planning Authority to take the impact of development on non-designated heritage assets into account when determining planning applications and the National Planning Policy Guidance States, *“Local lists incorporated into Local Plans can be a positive way for the local planning authority to identify non-designated heritage assets against consistent criteria so as to improve the predictability of the potential for sustainable development”*.
- 1.2 Having adopted criteria for a Local List of Heritage Assets based on publically scrutinised and rigorous selection criteria provides a more robust basis for assessing planning decisions as well as identifying heritage issues at the earliest possible stage in the planning process. Adopting a list of non-designated Heritage Assets, can add weight to planning decisions on appeal.
- 1.3 The Examination Draft Nottingham City Land and Planning Policies Document follows the above approach and states, *“The Council will produce and maintain a list of non-designated heritage assets and set out the criteria for their identification.”* The adoption of such a list and the criteria for it is therefore in accordance with National and emerging local policy.
- 1.4 Even where a non-designated Heritage Asset is placed on a Local List it is generally afforded no higher level of protection in planning terms than any other property (unless it is situated in a conservation area). In particular, the demolition of a non-designated Heritage Asset would normally be permitted under the prior notification process. For this reason it is recommended that consideration also be given to the making of Article 4 Directions in the circumstances described in this report.

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

- 2.1 Many of the city’s most historically significant heritage assets are protected by national designations, with others being afforded higher levels of protection due to their location in Conservation Areas. However, many more significant buildings, historic landscapes and archaeological remains are not formally recognised, resulting in their actual and potential contribution and importance often being overlooked and unrecognised. The Nottingham City Aligned Core Strategy (Policy 11); the draft Nottingham City Land and Planning Policies Document (paragraph 4.130) and the Nottingham Heritage Strategy make reference to the Council creating a local list of non-designated heritage assets to ensure that their conservation and use remains a key part of the city’s heritage which prevails for the benefit of future generations.
- 2.2 Local Lists highlight key heritage assets in the townscape, which are cherished by communities. Such assets highlight the city’s history, providing an instinctive link to the past and giving us a sense of future direction by raising awareness of our origins. Local Lists differ from national designations as they draw attention to assets that are special

because they are locally significant.

- 2.3 Research suggests that around 60% of local authorities in England now have Local Lists. Nottingham has an established and detailed Local List, developed by the Nottingham Civic Society from an earlier list produced by the Council some years ago. However, the list is not formally adopted and can be afforded no weight in decision-making. Improving the list so that it is fit for purpose and formally adopted would enable the city to care for its valued assets and put them to best use as Nottingham grows.
- 2.4 The Nottingham Local Plan and the Heritage Strategy contain actions to adopt criteria for selection of heritage assets to be included in the Nottingham Local List. The Local List could then be used through the Local Plan as part of the evidence-base for planning and development as well as ensuring due process in decisions about the future of heritage assets and having a robust process for the justification of decisions on appeal.
- 2.5 The proposed Local List Criteria and Selection Process has been written by officers from the Heritage and Urban Design Team in collaboration with the City Archaeologist and colleagues in Planning and Planning Policy Teams and having regard to the advice in *Historic England's Advice Note 7: Local Heritage Listing*. It has also been developed in consultation with the Nottingham Civic Society, the Nottingham Heritage Panel, Historic England, and the University of Nottingham.
- 2.6 As the Planning Committee will use the list to help it assess planning applications the initial Local List criteria were considered by that Committee following which they were subject to a 6 week public consultation period ending 7<sup>th</sup> January 2017. This enabled members of the public to input into the formation of the Local List Criteria and Selection Process. From the consultation, 98% (80 people) thought that NCC should hold a Local List and 95% (77 people) felt that Article 4 Directions should be used in the case of demolition.
- 2.7 Following consultation the proposals have been revised and are reflected in the proposed Criteria and Selection Process outlined in Appendix 1. The Consultation Report is contained in Appendix 2 by way of information. Planning Committee was consulted on these revisions on 18 July 2018 and has recommended the adoption of a Local List using the Criteria and Selection Process to the Board.
- 2.8 Historic England Advice Note 7 on Local Heritage Listing recommends, *"Where changes do not require planning permission, an authority may consider whether the exercise of permitted development rights would undermine the aims for locally listed heritage assets. In cases where it would, authorities may consider the use of an Article 4 Direction (in tandem with the local listing process) to ensure any permitted development is given due consideration."* Some authorities (such as Leicester City Council) have imposed Article 4 directions taking away these permitted development rights for Locally Listed Heritage Assets.
- 2.9 The public consultation on the Local List gave a clear steer (95%) that NCC should impose Article 4 Directions in the case of demolition of a

Locally Listed Heritage Asset. The imposition of Article 4 Directions in the case of Local Lists has been explored nationally and forms the basis for recommending which Local Heritage Assets (that currently have Permitted Development rights for demolition by Prior Notification) should have Article 4 Directions placed on them to require planning permission to be gained in the case of demolition. This would equalise protection of Locally Listed historic buildings with buildings within Conservation Areas. The process of applying the criteria of the Local List and using Article 4 Directions has been tested through a pilot project in Basford. Planning Committee has recommended that Article 4 Directions be considered in the circumstances outlined in Appendix 3.

- 2.10 As can be seen from Appendix 1 it is intended that decisions as to whether an asset is ultimately placed on the list shall be taken by the Portfolio Holder for Housing and Planning rather than Board as this falls within their standard remit as do decisions relating to the making of Article 4 Directions. The process to add an asset to the Local List would run in parallel with the process for making an Article 4 Direction with a 6-week consultation period with two public notices, a notice in a Local Newspaper and consultation with the owner, applicant, Local Stakeholders, such as ward councillors, Planning and Regeneration Team, businesses and heritage organisations. Following the consultation period, final approval to add to the list would be made by the Portfolio Holder. Officers would address any objections or appeals prior to final approval to add to the Local List.

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

- 3.1 Not to adopt a Local List – the Local List is an opportunity to engage Citizens from all communities in recognising heritage value throughout the city. Without a Local List those heritage assets of Local Value would not be identified early in the planning process potentially making such decisions less robust. Therefore, this option is not recommended.
- 3.2 Not to Apply Article 4 Directions - while such Directions will not be used in every case failing to use them at all could result in the loss of heritage buildings without appropriate opportunity being given to consider whether such loss is justified or mitigated.

### **4 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)**

- 4.1 This report seeks approval to adopt a Local List of Heritage Assets in Nottingham as well as the selection criteria and process governing the list. The additional funding implications of a Local List of Heritage Assets is nil as all resource requirements can be met from existing resources.
- 4.2 Compilation and the ongoing maintenance of the Local List will require staff time which will be met by increasing the efficiency of existing resources. The data will be held on the authority's existing GIS system and Historic Environment Record maintained by the GIS team and the City Archaeologist.
- 4.3 No further cost implications are expected at this stage. If this were to change further approval would need to be sought.

Ceri Walters,  
Head of Commercial Finance  
31<sup>st</sup> August 2018

## **5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)**

- 5.1 The proposals appear consistent with relevant National and Local Planning Policy and Guidance and whilst not carrying the weight of a Supplementary Planning Document the placing of assets on the local list will still amount to a material planning consideration in determining planning applications thereby affording such assets an additional layer of protection.
- 5.2 Once the selection process has been followed decisions as to which assets will be placed on the list and whether an Article 4 Direction should be made will ultimately rest with the Portfolio holder. Once on the local list there is no formal right of challenge other than potentially by judicial review or challenging any planning decision where the relevant asset has formed a material planning consideration. Where it is determined that an Article 4 Direction is also required a separate statutory procedure has to be followed which may mean that there is a delay between an asset being placed on the Local List and any relevant Article 4 Direction being confirmed and taking effect (unless special circumstances exist necessitating the Direction to take effect immediately)

Ann Barrett,  
Team Leader Planning, Environment and Leisure Solicitors  
22 August 2018

## **6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE)**

- 6.1 The proposals set out in this report are supported on the basis that processes will be put in place to ensure that Property colleagues are consulted at an early stage in respect of all properties owned by the Council to be considered for inclusion in the Local List. Furthermore, processes should be put in place to ensure other relevant Council colleagues, for example Regeneration colleagues, are consulted at an early stage in respect of properties not owned by the Council to be considered for inclusion in the Local List.

Rod Martin  
Development Manager  
29<sup>th</sup> August 2018

## **7 SOCIAL VALUE CONSIDERATIONS**

- 7.1 To enhance the heritage at the heart of Nottingham is a public benefit helping instil a sense of pride and place-making in citizens. Heritage is a key part of the unique selling point of Nottingham and a Local List would help citizens gain recognition of Local Heritage Value.

## **8 REGARD TO THE NHS CONSTITUTION**

8.1 Not applicable

## **9 EQUALITY IMPACT ASSESSMENT (EIA)**

9.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because:

(Please explain why an EIA is not necessary)

The Local List will provide opportunities for citizens from all communities to make applications to add entries to the Local List. The criteria includes a means of recognising diverse heritage within Nottingham and the contribution that all communities have made to the history of the city. Dissemination will be through central Communication teams and forwarded to staff networks. The inclusion of inaccessible buildings would not preclude promotion of better access for all to heritage and public buildings.

Yes



Attached as Appendix x, and due regard will be given to any implications identified in it.

## **10 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)**

Appendix 1 – Proposed Local List Criteria and Selection Process

Appendix 2 – Local List Criteria and Selection Process Consultation Report

Appendix 3 – Flowchart of recommendations for cases to use Article 4

Directions in the case of demolition

## **11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT**

11.1 Nottingham Heritage Strategy (Published March 2015)

11.2 Historic England Advice Note 7: Local Heritage Listing (Published May 2016)  
National Planning Policy Framework and Guidance (2018)

11.3 Nottingham City Aligned Core Strategy (part 1 Local Plan) (adopted September 2014) and the Nottingham City Land and Planning Policies Document (part 2 Local Plan) (Publication Version January 2016)

11.4 Nottingham Local List Adoption, Planning Committee, 18<sup>th</sup> August 2018

11.5 Nottingham Local List Criteria and Selection Process, Planning Committee, 23<sup>rd</sup> November 2016

## Appendix 1 - Proposed Local List Criteria and Selection Process

### Nottingham Local List Criteria and Selection Process Criteria for the Designation of Locally Listed Heritage Assets in Nottingham

The Local List should be a tangible reflection of the characteristics and history of Nottingham. Therefore, nominations for the list will be assessed against the criteria listed below. Elements of historical association will require evidence within the fabric of the building or heritage asset to meet the criteria of the list. Heritage assets must as a minimum have a local significance in order to be included on the list and for their inclusion to be regarded as a material planning consideration. The impact of development on locally listed assets will be part of the balancing exercise in the determination of planning applications (National Planning Policy Framework paragraph 135). All buildings that meet the criteria of national listing should be included in the National Heritage List of England if Historic England are aware of the building. However, designation of archaeological remains and designed landscapes at a national level only represents a sample of nationally important heritage assets and therefore some heritage assets included in the Local List may also be of national importance. The Local List is compiled through applications rather than a systematic survey and is not exhaustive. If a heritage asset is not included in, the list it does not mean it is ineligible for inclusion or that it cannot be afforded some level of protection under general planning policy.

In the following –HER means Historic Environment Record and UAD means Urban Archaeological Database

<b>Criterion</b>	<b>Description</b>
<b>Age criteria for buildings and structures</b>	<ul style="list-style-type: none"> <li>• Pre-1840 likely to be nationally listed if not will normally be included in the Local List</li> <li>• 1840-1914 – Likely to be of traditional construction and, while other criteria of selection need to be met, heritage within this timeframe is likely to provide evidence of the development of Nottingham from a medieval to modern city. Greater selectivity will be necessary from this period to today as mass production and availability of materials led to more standardisation of buildings.</li> <li>• 1914-1960 – for heritage within this category there will be a high level of selectivity and assets will be selected that either represent innovation; high quality design or aesthetic value or reflect important historic or communal associations</li> <li>• Post-1960 – The highest level of selectivity will be used for this group where the asset will demonstrably contribute to the heritage of the city to be included in the list</li> </ul>
<b>Rarity</b>	Appropriate for all assets, as judged against local characteristics. Is the building or monument type either a local rarity or uniquely characteristic of the heritage of Nottingham? Selection will be made based on protecting rare heritage types as well as representing the typical or common place. Guidance on the

	relative rarity of heritage assets is given below with advice on how to judge good examples of each.
<b>Heritage Asset Type</b>	<p>The following heritage asset types play an important role in understanding the heritage of Nottingham:</p> <ul style="list-style-type: none"> <li>• Agricultural – surviving examples of pre-enclosure heritage assets that have been subsumed in the city – all are likely to be good candidates for local listing</li> <li>• Commemorative – high quality monuments that show a high level of craftsmanship or artistry will be good candidates for local listing especially if associated with a known artist. This category includes: <ul style="list-style-type: none"> <li>○ Public Art and Sculpture by leading artists or of communal value</li> <li>○ Good quality Funerary Monuments</li> <li>○ Civic Monuments and Statuary</li> <li>○ War Memorials – are likely to be good candidates for local listing as they represent the role the people of Nottingham in events on a world stage</li> </ul> </li> <li>• Commercial – Within this category, there will be a high level of selectivity in terms of the survival of fabric and aesthetic quality. <ul style="list-style-type: none"> <li>○ Banks and Offices</li> <li>○ Shops, department stores, markets and auction houses</li> <li>○ Good quality historic public houses (is it on the CAMRA historic pubs list?), Inns and Hotels</li> <li>○ Tea houses, temperance bars and social clubs</li> </ul> </li> <li>• Cultural and Entertainment – this category will need to demonstrate a high aesthetic quality and substantial original fabric of the building in order to be listed. <ul style="list-style-type: none"> <li>○ Libraries and reading rooms</li> <li>○ Museums and Art Galleries</li> <li>○ Assembly Rooms and Music Halls</li> <li>○ Concert Halls, music venues, Theatres and Cinemas</li> <li>○ Dance Halls, Villages Halls and institutes</li> </ul> </li> <li>• Surviving vernacular houses, usually dating to the pre-enclosure period, are likely to be at least of local significance due to their local rarity. Complete cave dwellings are likely to be of local if not national importance (see caves).</li> <li>• Town Houses – there are many examples of town houses on the national heritage list within the Nottingham City Council area. Those houses before the mid Victorian period that do not meet the national criteria are likely to be good candidates for local listing.</li> <li>• Workers Housing and textile workers housing – good examples of groups of workers housing might be better served by conservation area status. For individual buildings and small groups that reflect good historic</li> </ul>

	<p>examples local listing might be a good management tool. Frame-work knitters and lace maker's dwellings are likely to be locally significant if they are not recognised by national listing.</p> <ul style="list-style-type: none"> <li>• Suburban and Country Houses – well-designed examples with high aesthetic value will make good candidates for local listing; especially if there is a historical association with important Nottingham figures such as local industrialists. This type of housing includes: <ul style="list-style-type: none"> <li>○ Villas</li> <li>○ Halls (e.g. Clifton, Basford and Wollaton)</li> <li>○ Suburban housing</li> <li>○ Clergy Housing</li> </ul> </li> <li>• Modernist Housing – individual houses are a relative rarity in the city so good examples might meet the criteria for local listing. There are significant numbers of 20th century housing typical of the era so a very high level of judgement will be used in the selection of Local List candidates. There are good examples of wartime housing, which might be of local significance (see prefabricated buildings below).</li> <li>• Education – the city is well served with good education board schools from the 1870s. There are also good examples of earlier schools such as the Town Mission Ragged School of 1858 and the Old Grammar School at Bulwell of 1667. The two universities and a number of higher education establishments contain good historic buildings. Good candidates for local listing will include early schools and well-designed historic education buildings from all periods. Buildings within this category include: <ul style="list-style-type: none"> <li>○ Board Schools and other school</li> <li>○ University and Higher Education establishments</li> <li>○ Halls of Residence – the universities have several high quality halls of residence that were either purpose built, such as Florence Boot Hall or were reused residential properties, such as High Stewart Hall (formerly Lenton Hall). Those historic halls of residence that are not nationally recognised are good candidates for the Local List.</li> </ul> </li> <li>• Health and Welfare – there are some high quality undesignated health and welfare buildings in the city. Good examples would make excellent candidates for the Local List. This category includes: <ul style="list-style-type: none"> <li>○ Hospitals and Asylums –Victorian institutions within the city that are not nationally listed are likely to make good candidates for the Local List. There are the potential for archaeological remains of earlier foundations, such as the medieval hospital of St John. Remains of medieval hospitals are likely to</li> </ul> </li> </ul>
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	<p>be of national significance and will be managed through the Archaeological Constraint Areas and be added to the HER and UAD.</p> <ul style="list-style-type: none"> <li>○ Almshouses – standing almshouses survive from the Victorian and Edwardian period with many being nationally listed. Good examples of almshouses are likely to be excellent candidates for local listing.</li> <li>○ Workhouses and Children’s Homes – such as Basford Union Workhouse</li> <li>○ Dispensaries</li> </ul> <ul style="list-style-type: none"> <li>● Industrial – the main industries in the city of Nottingham during the post-medieval and modern periods were lace, bicycles and tobacco. While national listing protects some heritage, assets relating to these industries many fall below the criteria while adding greatly to the story of Nottingham. These would therefore meet the criteria of local listing: <ul style="list-style-type: none"> <li>○ Lace and stocking Manufacturing, finishing (bleach works) and warehousing buildings</li> <li>○ Buildings associated with Viyella manufacturing</li> <li>○ Boots buildings – including diversified industry such as the print works</li> <li>○ Heritage assets relating to the tobacco industry</li> <li>○ Fabric relating to Raleigh Bicycle manufacture</li> <li>○ Heritage Assets relating to the leather and tanning industry</li> <li>○ Breweries and Maltings</li> <li>○ Mining/Quarrying</li> <li>○ Warehouses – including rail warehouses</li> <li>○ Heritage Assets relating to motorcycles and the early motor industry.</li> <li>○ Early Industry – archaeological remains of early industry are likely to make good candidates for local listing, such as mining from the 16<sup>th</sup> century</li> <li>○ Any remains of the Nottingham alabaster industry will be protected by local listing if not by national designation</li> <li>○ Heritage assets relating to pottery, tile and brick production</li> </ul> </li> <li>● Law and Civic – Civic buildings tend to represent the highest quality of design and planning and therefore are often included within the National Heritage List. Historic examples that do not meet the criteria of national listing are likely to be of local significance in terms of the history of the civic development of the city. Examples include: <ul style="list-style-type: none"> <li>○ Town Halls and government buildings</li> <li>○ Law courts, police stations and prisons</li> <li>○ Fire stations</li> <li>○ Political Clubs and Institutions, such as the</li> </ul> </li> </ul>
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#### Mechanics Institute

- Military – there is a high potential of military remains of different periods throughout the city. Elements that survive well are likely to be locally listable. This might include:
  - Pre-Norman Conquest (Late Saxon) defensive ditch - archaeological traces of the defensive ditch are at least of local significance
  - Medieval Town Wall – archaeological traces of the town walls are at least of local significance. There is only one short length of in situ town wall and this is already scheduled. Further remains are unlikely to survive; however, theoretically some remains of wall could exist
  - Medieval (post Norman Conquest) town ditch – archaeological traces of the defensive ditch are at least of local significance
  - Civil War remains – any remains are of local if not national significance
  - 20th century defences – such as pill boxes, airfields, anti-aircraft batteries, bombing decoys or bunkers/shelters
  - Prisoner of War locations and camps and army training grounds – there are at least two known locations within the city where prisoners of war were detained. If there is surviving fabric of these historical events, they may be worth of local listing in their own right or would add to the case for local listing with other factors.
- Places of Worship or religious sites – Good examples of historic places of worship of all different denominations and faiths can be eligible for local listing. This includes buildings that have been reused as faith buildings such as houses, which have been converted to mosques. There are potential archaeological remains in the city of medieval religious foundations such as at the scheduled Lenton Priory or the site of the Carmelite Friary off Friar Lane as well as smaller scale sites such as the scheduled Lenton Hermitage. Any traces will be of national significance and will be protected through Archaeological Constraint Areas.
- Burial or funerary sites without religious affiliation – there is at least one medieval site and there are also known Bronze Age and Roman sites within the city
- Sports and Recreation –
  - Swimming Baths
  - Early or well-designed historic Indoor sporting venues such as billiard halls, lads or girls clubs, skittle alleys, gymnasia, drill halls and sports centres
  - Good quality historic outdoor sporting venues –

	<p>including pavilions, grandstands, and sports grounds</p> <ul style="list-style-type: none"> <li>• Street Furniture – good examples will be grouped with other heritage assets to meet the criteria for designation unless of exceptional quality. This category can include street surfaces and steps, lighting, boundary markers, signposts, bus shelters, drinking fountains, pumps, letterboxes and telephone kiosks.</li> <li>• Transport – surviving infrastructure and buildings can be locally listable such as: <ul style="list-style-type: none"> <li>○ Rail viaducts and trackbeds</li> <li>○ Suburban Railways</li> <li>○ Canal and river structures</li> <li>○ Bridges</li> <li>○ Train warehouses</li> <li>○ Car parks and showrooms</li> <li>○ Bus and tram depots and sheds</li> </ul> </li> <li>• Utilities and Communication – historic examples of the following heritage assets could be added to the Local List: <ul style="list-style-type: none"> <li>○ Power generation or distribution site</li> <li>○ Wells, waterworks, pumping stations, water towers and reservoirs.</li> <li>○ Communications structures – good quality historic post offices and telegraph exchanges</li> </ul> </li> <li>• Prefabricated buildings, such as the ‘Crane House’ in the Middleton Boulevard Conservation Area – need to evaluate whether they would benefit from extra protection through being locally listed. There are also a group of Tarran bungalows on Beechdale Road. With local listing, selectivity will be used in designation to protect key buildings that add to the understanding of the whole or that retain original fabric.</li> <li>• Caves – these have been cut into the soft sandstone below the city centre for centuries for different purposes from hermitages, to pub cellars and even malt kilns, tanneries and catacombs. The caves have now been extensively mapped and a Supplementary Planning Document is being prepared for their management. Individual local listing of the caves would help to flag up their presence in the planning process and ensure the impact of development on the caves is understood and considered within the determination of planning applications.</li> <li>• Prehistoric Nottingham – There is a high potential that prehistoric remains survive, particularly in areas close to the River Trent. Excavations have shown the presence of Bronze Age and Iron Age settlements in Clifton, Wilford and Broxtowe. These remains are likely to be regionally if not nationally important and if they are not designated, they will be included in the Local List.</li> </ul>
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	<ul style="list-style-type: none"> <li>• Roman Nottingham – considering the plentiful prehistoric evidence in the Trent Valley there is a paucity of Roman evidence within Nottingham. Any remains of Roman date will be added to the Local List if not nationally designated.</li> <li>• Saxon and Medieval Nottingham – There is a high potential that remains of the Saxon borough sited around the Lace Market and the Norman Town focussed at the castle survive beneath the city centre. These have the potential to contain information about everyday life in the city for more than 1000 years. Outside the centre, there is the potential for remains to survive of smaller settlements around the city such as at Basford, Bulwell, Sneinton, Wilford and around the Lenton Priory site. Any significant remains are likely to be of national importance and therefore will be managed through the Archaeological Constraint Areas by the City Archaeologist. These will be added to the HER and UAD.</li> </ul>
<b>Architectural or Artistic value</b>	<p>The intrinsic design value of an asset relating to local styles, materials or any other distinctive local characteristics, for example:</p> <ul style="list-style-type: none"> <li>• Use of Bulwell Stone or Derbyshire Gritstone in a good quality building</li> <li>• High quality use of architectural ceramics</li> <li>• Good examples of brick buildings using brick detailing – needs additional selection criteria</li> <li>• Fine examples of architectural styles, such as neo-gothic, Art Deco, or eclectic</li> <li>• High quality of craftsmanship or design</li> </ul>
<b>Group value</b>	<p>Groupings of assets with a clear visual, design or historic relationship, such as the group of heritage assets around Wellington Circus or the Civic area around the Guild Hall. Consideration needs to be made whether there are enough assets for a conservation area and whether that would be a better means of managing them.</p>
<b>Documentation</b>	<p>The significance of a local heritage asset of any kind may be enhanced by a significant contemporary or historic written record</p>
<b>Historic association</b>	<p>The significance of a local heritage asset of any kind may be enhanced by a significant historical association of local or national note, including links to important local figures, such as;</p> <ul style="list-style-type: none"> <li>• Buildings designed by Nottingham architects T.C. Hine, Watson Fothergill, Cecil Howitt, GT Hine, AM Bromley, Gilbert Smith Doughty, Brewill and Baily, Arthur Marshall</li> <li>• Architects that designed any buildings of Special Interest recognised on the National Heritage List for England</li> <li>• Key figures in the history of Nottingham such as Jesse and Florence Boot, Albert Ball, William and Catherine Booth, or Mary Potter</li> <li>• Examples of philanthropy within the city</li> <li>• Heritage Assets associated with Literary or artistic figures</li> </ul>

	<p>such as Lord Byron, DH Lawrence, Alan Stillitoe (?), Laura Knight</p> <ul style="list-style-type: none"> <li>• Heritage Assets associated with rebellion or social reform within the city, such as Luddite disturbances, Chartist riots and the Suffragette and Women's movement</li> </ul> <p>Selectivity will be taken with heritage assets designated for historical association, there will be a link between the historical events/figures and existing fabric. Historical association without a link to existing fabric can be recognised by other means, such as a blue plaque scheme</p>
<b>Archaeological interest</b>	<p>Heritage assets can be locally designated on the grounds of archaeological interest if the evidence base is sufficiently compelling and if a distinct area can be identified. In Nottingham, there is a high potential for important archaeological remains, which are not protected through national designation including caves cut into the rock (see above) to a range of buried deposits potentially from as early as the Bronze Age detailing everyday life in the city. Extensive remains of medieval date within the area of the Saxon and Norman city are likely to be of national importance. Specific heritage asset types are dealt with above and consideration must be made of whether local listing is an appropriate management tool or whether remains will be managed through Archaeological Constraint Areas alongside recording on the HER and UAD. There are some sites within the Nottingham City Council area that contains high palaeoenvironmental potential, which could be locally protected within the Local List.</p>
<b>Designed landscapes and Open Spaces</b>	<p>This includes gardens, grounds and other planned open spaces, such as town squares, that are not on the national register of Parks and Gardens but do have historic significance. Some started life as the grounds of private houses while others include public parks and cemeteries. Even hospital landscapes and industrial sites such as pumping stations can be included, because they have skilfully planned surroundings reflecting the landscaping fashions of their day. The emphasis of the Register is on 'designed' landscapes, rather than on planting or botanical importance. Nottingham has an interesting and strong assemblage of different design landscapes emphasising the planning of green spaces in the later development of the town and later city. Designed landscapes that are characteristic of Nottingham include:</p> <ul style="list-style-type: none"> <li>• Allotments and detached town gardens – Nottingham has the largest area of detached town gardens (St Ann's Allotments) and two (St Ann's Allotments and Bagthorpe Gardens) of the five designated areas of detached town gardens in the country. Detached town gardens were plots of land at the edge of the town rented out to artisans and the skilled working class, such as lace makers, for use as ornamental and productive gardens. This is a nationally rare landscape type, which is likely to be</li> </ul>

	<p>recognised by inclusion on the register of parks and gardens. In addition to these nationally designated landscapes, there are historic allotments within the city. A candidate for local listing would need good survival of historic layout, boundary features.</p> <ul style="list-style-type: none"> <li>• Gardens/Grounds of villas and country houses – where there is the survival of layout, boundaries, structures and planting consideration for local listing will be given.</li> <li>• Victorian/Edwardian Suburbs – with circuses and squares – such as the Park Estate or Wellington Circus. Good candidates for local listing will have surviving layout and boundaries with a preference for original planting schemes.</li> <li>• 20<sup>th</sup> century Garden Suburbs – for example Clifton South where the layout still survives with good tree planting to increase public amenity. A high level of judgement will be needed to select those elements that are characteristic of the whole and survive intact.</li> <li>• Public Parks and gardens including structures – such as the Arboretum, Highfields Park or the Castle Bailey. A discussion regarding the most appropriate management tool might be appropriate as the three examples are already nationally designated.</li> <li>• Public Walks – Nottingham has a number of public walks created immediately after the Enclosure Act of 1845. These are not unique; however, Nottingham is unusual having a planned set of walks including Robin Hood Chase, Corporation Oaks, the walk around Bellevue Reservoir, Elm Avenue and Queen's Walk.</li> <li>• Cemeteries and Gardens of Remembrance – including designated sites such as Rock Cemetery (grade II* registered) and the General Cemetery (grade II registered) or locally significant places such as the Jewish Burial Ground on North Sherwood Street. Other examples include St Mary's Garden, which was a Cholera Burial Ground and intra-mural burial grounds at Mount Street and Barker Gate. Good candidates for local listing will have surviving boundaries, layout and landscaping, planting, monuments and buildings.</li> <li>• Institutional landscapes – such as University Park or King Edwards Park, Sinton (the site of the County Lunatic Asylum). Surviving elements will normally include boundaries, layout, landscaping, and structures.</li> </ul>
<b>Landmark status</b>	An asset with strong communal or historical associations, or because it has especially striking aesthetic value, may be singled out as a landmark within the local scene. This might include a historic building that ends the view down a street or a church or institutional building.
<b>Social and communal value</b>	Relating to places perceived as a source of local identity, distinctiveness, social interaction and coherence; often residing

	<p>in intangible aspects of heritage contributing to the “collective memory” of a place. This can include public places such as swimming baths, schools, pubs or parks; or historic places associated with influential figures in the city. Allied to this is the importance of the asset to the story of Nottingham or parts of Nottingham. Within this category assets representing the following might represent good candidates for local listing:</p> <ul style="list-style-type: none"> <li>• Heritage assets that relate to Black And Minority Ethnic (BME) communities within the city</li> <li>• War memorials</li> <li>• Community facilities such as schools, swimming pools and public houses (see above)</li> <li>• Buildings that reflect discrete communities in the city such as LGBTQ buildings</li> </ul> <p>This can add to the significance of a building but will relate to the fabric of heritage assets for this to be a defining criteria of selection.</p>
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### Selection Process for Local Listing

1. Online Application Process – seeking:
  - **Statement of significance:** *identifying the significance of the asset in the local context*
  - **Location details:** *Ordnance Survey (OS) grid references and street address*
  - **Administrative information:** *may include Parish, District and County details*
  - **Photographs:** *visual recording of the asset from the public realm, concentrating on significant elements*

The Local List database populated from the application form will fulfil the data requirements of the Historic Environment Record so that it can be incorporated directly.
2. Application risk assessed to determine whether it needs to be assessed as a matter of urgency by the Selection Panel or whether it can be considered at the next quarterly meeting of the Panel
3. Selection Panel comprising of City Council Heritage Officers, Nottingham Civic Society and Community Heritage Representative assesses the application against the selection criteria for the Local List with the possible need of a site visit to assess significance as well as assessment of the requirement of an article 4 direction.
4. 28 Day Consultation - Owner and Applicant informed of selection process and implications of local listing through guidance. Consultation with local stakeholders, such as ward councillors, businesses and heritage organisations and publication of notices.
5. Application and results of consultation and referred to Portfolio Holder to determine whether the Asset be included in the Local List or rejected and if Article 4 Direction should be made. If included in the List the Asset will be add to the HER and GIS (Geographical Information System) layers on Nottingham Insight Mapping.
6. Applicant and owner informed of decision and reasons for designation or rejection.

7. If Article 4 Direction required the relevant Direction will be made, notified, published and confirmed in accordance with the procedure in Schedule 3 of the Town and Country Planning (General Development Procedure)(England ) Order 2015
8. Annual review of the Local List to assess whether any assets should be delisted with removal of article 4 directions.

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## **Appendix 2 - Local List Criteria and Selection Process Consultation Summary Report**

This report was generated on 10/01/17 following 6 weeks public consultation regarding proposed Local List, Criteria and Selection Process. Overall, 83 respondents completed this questionnaire.

### **Do you think Nottingham City Council should hold a Local List?**

<b>Response</b>	<b>Number</b>	<b>%</b>
Yes	80	98
No	2	2

### **Please explain your response to the question**

<b>Consultation Response Themes</b>	<b>NCC RESPONSE</b>
A local list would help to recognise local peoples' heritage - To identify and acknowledge hidden gems in the City	
Good for learning and tourism - Sell Nottingham to the world	
It would present a barrier to development.	<ul style="list-style-type: none"> <li>• In cases of demolition the future development of the site would be subject to planning permission therefore including the proposed demolition in the planning application can enable due consideration at the start rather than end of the planning process</li> <li>• Mediate issues that might come forward later where the development could be controversial</li> <li>• The heritage of Nottingham is key to Placemaking and creating a place that people chose to live in or visit boosting the local economy as demonstrated in the Nottingham Heritage Strategy, Heritage Counts and HLF reports.</li> </ul>
Listed building regime already exists. What additional benefits does a local list bring (and costs)?	<ul style="list-style-type: none"> <li>• Listed Buildings selection processes do not include what is of Local importance as they are a designation of national importance. This means a great number of locally significant</li> </ul>

	buildings that add greatly to the city's character and history remain unrecognised and have no safeguard.
Nottingham's heritage is very important. Once lost, historic buildings are lost forever.	
We have some great spaces/ buildings/ monuments which should be preserved for the people of Nottingham as they have a significance beyond the national criteria To protect local character - Great cities need to have a clear identity	

**Do you think Nottingham City Council should require owners to apply for planning permission for the demolition of Locally Listed Buildings or structures outside conservation areas?**

Response	Number	%
Yes	77	95
No	4	5

**Please explain your response to the question**

Consultation Response Themes	NCC RESPONSE
This is a key protection to avoid the summary demolition of buildings	
Future growth and prosperity depend on the socio-political environment being agile and responsive to change. The list would have to be properly managed so people / buyers/owners are made aware of this prior to the property purchase	<ul style="list-style-type: none"> <li>• In the vast majority of cases planning permission is required as part of comprehensive redevelopment of a site</li> <li>• By requiring planning permission, the balancing exercise between public benefits can be considered at the start of the planning process rather than applications causing controversy for applicants and decision-makers at the end of the planning process.</li> <li>• The process of selection and adoption would be rigorous, open and subject to consultation with owners.</li> </ul>

	<ul style="list-style-type: none"> <li>• Protection for Locally Listed Heritage Assets would be equalised with that inside conservation areas</li> </ul>
It is important that proper consideration is made.	
We need to take more care of local buildings and features that are important to local people	
There isn't that much point in having a local list if it doesn't involve some extra protection for the buildings concerned.	
It offers at least some protection to buildings of merit that happen to be outside of conservation areas.	
Yes, but only after the need has been expressed to the owner.	There would be a robust selection process and consultation period with owner and stakeholders

**Do you have any comments regarding the Local List Selection Criteria?**

<b>Consultation Response Themes</b>	<b>NCC RESPONSE AND CHANGES TO CRITERIA</b>
There are 14 men mentioned and only one woman as historical figures, association with whom would add significance.	This has been reviewed and a more equal balance is included
Geographical criteria are too broad and age criteria should be shifted forward	<ul style="list-style-type: none"> <li>• The geographical scope is an example within the criteria and very local historic significance does apply.</li> <li>• The age criteria are based on the tried and tested criteria that Historic England use for designation, which enables a period of time to gain a historic perspective on significance.</li> <li>• there are other factors that enable selection of younger buildings</li> </ul>
You need to include parks and public open spaces	Designed Landscape criteria includes open spaces for clarity
Historic and significance views should be included so that any changes to these can be considered	<ul style="list-style-type: none"> <li>• Within the planning process significant views cannot be protected through a Local List</li> <li>• In practice, views are managed through documents such as the Urban Design Guide and within individual applications to protect</li> </ul>

	the setting of Listed Buildings and Conservation Areas, which do have weight within the planning process.
Economic, social and sustainability issues must be balanced against desire to protect	<ul style="list-style-type: none"> <li>• The only additional burden would be the requirement to apply for planning permission, which is required for the wholesale redevelopment of a site already.</li> <li>• Without a Local List buildings can be lost without assurance that there are public benefits on the site that outweigh that loss.</li> <li>• For owners, it should give certainty and enable consideration of heritage issues early in the process.</li> </ul>
Seems a well thought out list of criteria but it will still be open to how it is interpreted.	<ul style="list-style-type: none"> <li>• Within the planning process, all decisions have to be weighed up between harm and public benefits.</li> <li>• There will be occasions where the public benefits derived by a scheme will outweigh the harm of the loss of a Locally Listed Heritage Asset.</li> <li>• However, the presence of the Local List will enable each case to be carefully considered and heritage value to be part of the balancing exercise.</li> </ul>
I feel trees could be included, especially those planted at a specific time or place, or trees over a certain age.	<ul style="list-style-type: none"> <li>• Trees are certainly an important part of the historic environment as reflected in the designed landscapes and open spaces part of the criteria.</li> <li>• Individual trees can already have a greater level of protection through Tree Preservation Orders.</li> </ul>
my only concern is that the criteria seems to put a lot of emphasis on physical nature and much less on cultural significance	There are criteria for recognising historic association and if there is no remaining fabric the cultural significance might be better recognised through a blue plaque.
Historic transport infrastructure should be included as a category, such as GCR of Nottm Suburban Railway remains, old tram works etc., trackbeds	This has been included in the final criteria

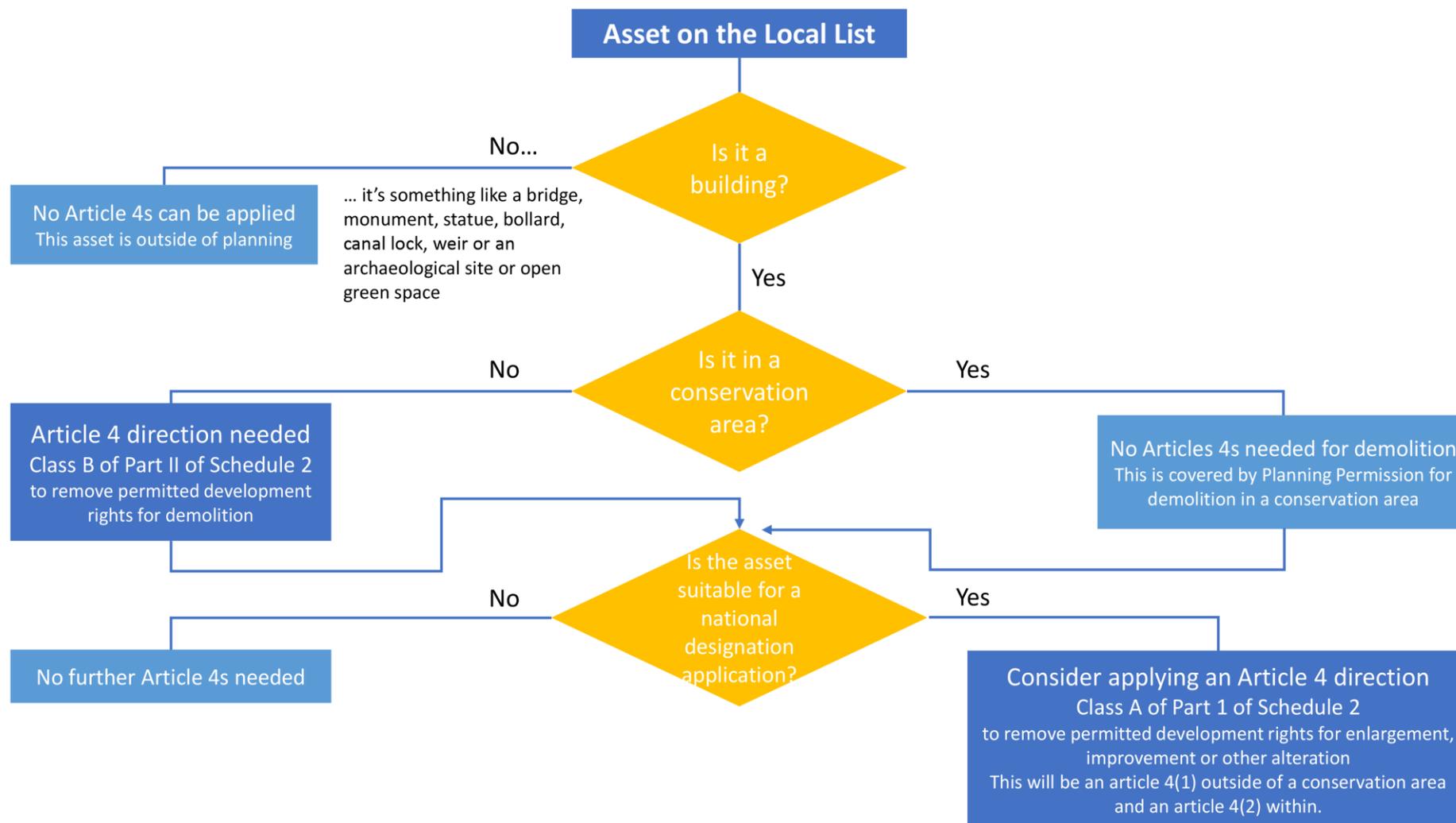
**Do you have any comments about the selection and application process for the Local List?**

<b>Consultation Response Themes</b>	<b>NCC RESPONSE AND CHANGES TO THE SELECTION AND APPLICATION PROCESS</b>
There is no appeals process? Listing would have significant impact on building owners, rejection impacts the applicant. The process for challenging decisions needs setting out	There is a consultation process when candidates are selected where people can raise objections to listing or the imposition of an Article 4 Direction.
Should include local non-council experts and community representatives? How would conflicts of interest be avoided?	<ul style="list-style-type: none"> <li>• The panel would be made up of members of NCC’s Heritage and Urban Design team, the City Archaeologist, Nottingham Civic Society and Community Representatives including local businesses.</li> <li>• We are keen to maintain the independence of the panel and to reflect different communities.</li> <li>• There would be a Terms of Reference for the Selection Panel as well as a Conflicts of Interest process.</li> </ul>
Wishes and sentiments need to be weighed up against economic, social and sustainable realities	
Application is too difficult	NCC are creating the framework for the formal process; however, aligned with this we would like to have dissemination and enhancement of the Local List in an easily understandable way through community groups such as the Nottingham Heritage Partnership and the Nottingham Civic Society.
Who will maintain the list and take decisions on inclusion? Will this remain with Nottingham civic society or become local authority duty?	The adopted list would need to be maintained by NCC as a framework; however, we would like the enhancement of the list to be taken up by heritage groups from all communities.
Possibly nomination by anyone but acceptance by a panel or a regular list of suggestions online or in local library for people to vote on	There would be a consultation period for all of the candidates, which can be put in Local Libraries and would be sent to local stakeholders. The panel would meet on a quarterly basis to consider applications

It is not clear how the selection criteria is to be consistently applied, or how many of the criterion an asset should be expected to meet before it is added to the list.

- The criteria has been tested through a pilot project in Basford and is based on selection principles developed by Historic England over decades.
- There will necessarily be subjective judgements and the selection panel will have to set the bar for Local Listing.
- Having a panel representing different heritage communities should help develop consistency in the application of the list.
- Completeness is an important factor, which is inherent in whether something is a good example of type.

**Appendix 3 – Flowchart of recommendations for cases to use Article 4 Directions in the case of demolition**



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